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GENERAL RULES

12-22

IN FORCE IN THE

REVENUE DEPARTMENT

UNDER THE GOVERNMENT OF BOMBAY.

COMPILED BY

THE REMEMBRANCER OF LEGAL AFFAIRS.

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ERRATA.

On page 2 in line 1 *for* "decument" *read* "document".

On page 89 in the marginal note to Rule 38 *for* "1889" *read* "1883".

On page 138 in line 2 of paragraph 2 of Additional Orders and Opinions *for* "C. Bom. H. C. R." *read* "VI. Bom. H. C. R."

On page 155 in line 26 *for* "1866" *read* "1886".

On page 241 in line 15 *for* "pencentage" *read* "percentage".

On page 289 in the first marginal note *for* "1st January 1890" *read* "1st January 1889".

On page 314 in line 5 *for* "3rd March 1882" *read* "22nd May 1882".

On page 520 in line 10 *for* "Bombay Act III of 1878" *read* "Bombay Act III of 1876".

On page 522 in line 1 *for* "coditions" *read* "conditions".

On page 532 in the last line of Rule 30 *for* "Medical" *read* "Commissariat".

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PART I.

RULES UNDER THE LAND REVENUE CODE.

6th December 1881.

In exercise of the powers conferred by section 91 of the Indian Registration Act, 1877, and by section 213 of the Bombay Land Revenue Code, 1879, and of all other powers enabling him on this behalf, the Governor in Council is pleased to make the following rules to regulate searches for, and the inspection of, and the grant of extracts from, or copies of, public documents, in supersession of all previous rules and orders on the same subjects :—

I.—Inspection.

Inspection of documents to which the public have a legal right when and how to be permitted.

1. The documents, maps, registers, accounts and records, the right of inspection of which is provided for in section 91 of the Indian Registration Act, 1877,* and in section 213 of the Bombay Land Revenue Code, 1879, and all public documents which any person has, under the provisions of any law for the time being in force, a right to inspect, shall be open to inspection in the office of the officer in charge of the same during the usual office-hours every day, except Sundays and public holidays, on payment of the fee hereinafter prescribed in this behalf: Provided always that no fee shall be levied by any village officer for allowing inspection of any such document, map, register, account or other public document as aforesaid which is in his charge.† (Published Notn. No. 7368 *B. G. G.* 1881, pp. 792 to 794.)

Inspection not to be permitted without a legal right.

2. Except in the cases named in the last preceding Rule, no inspection of any public document will be allowed.

II.—Extracts and Copies.

Uncertified copies and extracts how obtainable.

3. No uncertified copy or extract shall be obtainable of or from any document other than those described in Rule I, nor otherwise than under this Rule.

Any person entitled to inspect any public document under Rule I may himself make a copy, or employ his own agent to make a copy, of any public document, or of any portion of any public document of which he has duly obtained inspection, but no copy so made shall be certified by any public officer.

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* Amended by Act VII of 1886, section 6.

† "*Sanads being documents which Government give into the hands of the persons whose titles they evidence, they do not form part of the records of any Government office. The only record kept of them is a register. Hence the law provides for extracts being given from these registers, when applied for, but not for the grant of copies of the sanads themselves.*

In cases in which it is found necessary to make out a sanad in the names of several sharers, a copy may be given gratis to each, but each of such copies should be signed and executed by the same officer and treated as an original document. In no other case can a copy of a sanad be granted, but an extract from the register of sanads may be given on payment of the fees prescribed in the rules under section 213 of the Land Revenue Code and section 91 of the Registration Act." (G. R., R. D., No. 4180, dated 2nd June 1883.)

Certified copies or extracts of or from the documents described in Rule I how obtainable.

4. The officer in charge of any public document described in Rule I shall cause to be prepared, and give a certified copy of the same, or of any portion thereof under his own signature, to any person applying for such copy, on payment of the fee hereinafter prescribed in this behalf: Provided that every application for a certified copy of any public document in the charge of a village officer shall be made to the Mámlatdár or Mahálkari to whom such officer is subordinate, who shall cause the copy to be prepared by the village accountant. Every such copy, after being compared by the village accountant with the original, shall be signed by him in token of its being correct, and shall be sent by him to the Mámlatdár or Mahálkari for the purpose of being certified and made over to the applicant. No village officer shall himself certify a copy to be a true copy, or receive or grant an application for any such copy.

When certified copies or extracts may be granted of or from public documents other than those described in Rule I.

5. Subject to the proviso contained in the last preceding Rule, certified copies of public documents, or of portions of public documents other than those described in Rule I, may be granted by the officer in charge thereof to any person applying for the same, on payment of the fee hereinafter prescribed in this behalf: Provided—

(*a*) that in disposing of any such application the officer to whom the same is made shall be guided by the orders of Government and of any officer to whom he is subordinate, and in case of doubt shall, before disposing of the same, refer to his immediate superior for instructions;

(*b*) that no copy of any official correspondence or of any opinion of a Government law officer, or of any order or resolution embodying any such opinion, shall be given by any officer subordinate to a Collector without the Collector's previous permission, or by any survey officer without the previous permission of the Survey Commissioner;

(*c*) that no copy shall be granted of any record, map or plan which has been printed or lithographed and published under the authority of Government;

(*d*) that no copy of any document is to be given in any case in which it is obvious that such a course would be prejudicial to Government.

Fee-endorsement to be written on certified copies.

6. On every certified copy or extract granted under these Rules there shall be endorsed, by the officer who receives the fee for the same, a receipt in the following form (namely):—

"Received Rs. a. , being the fee for this certified copy.
Dated the of 189 . (Signed) *A. B.*"

Form of certificate.

7. The certificate on all certified copies or extracts granted under these Rules shall be in the form prescribed by section 76 of the Indian Evidence Act.

III.—SEARCHES.

Search-fee when payable.

8. When an application is made for an inspection or copy of any public document, or of any portion of a public document, and such application does not distinctly describe the number, date and nature of the document required; or if the description given in such application is incorrect, and it shall in consequence be necessary for the officer in charge of the document to search his records in order to find it, a fee, at the rate hereinafter prescribed, shall be payable by the applicant for such search, whether the inspection or copy for which he applies shall, on examination of the said document by the said officer, be granted or not: Provided that no such fee shall be levied by a village officer.

IV.—FEES.*

Table of fees to be levied.

9. The following fees shall be levied in cash under these Rules (namely):—

(1) For every inspection granted under Rule I by any officer other than a village officer... ...	8 annas.
(2) For every certified copy of a public document not falling under Article (3) of this Table:—	
(*a*) if the original be in English, for every 100 words or fraction of 100 words	2 annas.
(*b*) if the original be in the vernacular, for every 100 words or fraction of 100 words...	1½ annas.
(*c*) if the original be in a tabular form, whether in English or the vernacular	twice the rates respectively named in clauses (*a*) and (*b*).
(3) For every certified extract from a Register of Alienations granted under section 53 of the Bombay Land Revenue Code.	1 anna for every rupee of the amount of alienated revenue, or if the Sanad lost or destroyed had been granted under Bombay Act IV of 1868, or under section 133 of the Bombay Land Revenue Code, 1879, a sum equal to one-half of the survey fee which the holder of the building site included in the Sanad would be liable to pay under section 132 of the said Code if not exempted by the second paragraph of that section: Provided that the fee shall in no case exceed Rs. 10 or be less than 8 annas.

(Notn. No. 3410, *B. G. G.*, 1883, p. 333.)

* Non-official copyists should be paid at a rate varying from two-thirds to the full amount of the fees leviable under Rule 9. (G. R. No. 7669, dated 26th September 1884, R. D.) Kulkarnis and Talátis are to be permitted to take fees for making copies of maps and plans. (G. R. No. 4106, dated 21st May 1885, R. D.)

(4) For every certified copy of a map of a survey number, or of a recognized share of a survey number, or of a field, or of any ordinary (uncoloured) map, or plan of any immoveable property...	... 1 rupee.
(5) For every certified copy of a map or plan, or of any portion of a map or plan not falling under Article (4) of this Table.	such fee not exceeding fifteen rupees, and not less than one rupee, as the officer who certifies the copy shall determine : Provided that no fee exceeding Rs. 5 shall be charged by any officer subordinate to a Collector except with the permission of the Collector, or by a survey officer except with the permission of the Survey Commissioner.
(9) For every search made by any officer other than a village officer.	1 rupee for each year of which the records shall be searched.

Fee to be paid in advance.

10. Every fee payable in accordance with the foregoing table shall be paid in advance

Disposal of fees.

11. The amount of all fees so received shall be entered in a separate book to be kept for this purpose by the officer in charge of the records, and shall be remitted before the close of each month to the nearest Government Treasury after deducting the amount paid, in the case of certified copies and extracts, to section-writers under Government Resolution No. 3356, dated 11th November 1874, Financial Department, or under any other orders of Government that may be hereafter issued.

V.—MISCELLANEOUS.

Applications under these Rules to be made in writing.

12. Every application under these Rules, except an application under Rule 1 to a village officer, must be made in writing.

Proceedings to be recorded on each application.

13. Every such application shall be numbered and filed by the officer to whom it is presented, and shall be endorsed with a memorandum, under his signature, stating the date on which it was presented, the amount of fees, if any, received either at the time of presentation thereof or subsequently at any time, and the date and manner in which the application was disposed of.

Care to be exercised in granting inspections or copies as a matter of right.

14. In considering any application purporting to be made under sections 90 and 91 of the Indian Registration Act, 1877, or under section 213 of the Bombay Land Revenue Code, 1879, or under any other law which grants to any person a right of inspection, special care must be taken to see that the public document, with respect to which such application is made, is

one to which the law relied upon is applicable, and that the applicant is a person entitled to inspection (and, therefore, if he requires it under section 76 of the Indian Evidence Act, to a copy) before granting the application as a matter of right.

Saving of the provisions of the Stamp and Court Fees Acts.

15. Nothing in these Rules is to be deemed to affect the provisions of the Stamp Act or Court Fees Act. The stamp-duty or court-fee with which any application, copy or extract made or furnished under these Rules may be chargeable, is to be deemed to be in addition to the fees prescribed by Rule 9, and care is to be taken that the requirements of the Stamp Act and Court Fees Act are properly fulfilled in respect of every such application, copy or extract.

"Public document" defined.

16. In these Rules the words "public document" are to be deemed to have the same meaning as in the Indian Evidence Act I of 1872 (*see* section 74 of that Act).

Local extent of these Rules.

17. Nothing in these Rules applies to the City of Bombay or to any civil or criminal court.

1st March 1890.

Under the provisions of section 198 of the Bombay Land Revenue Code, 1879, and in supersession of Notification No. 6133, published at page 186 of the *Bombay Government Gazette* for 1882, Part I, His Excellency the Governor in Council is pleased to authorise the following fees* for authenticated copies and translations of decisions, orders, and the reasons therefor, and of exhibits in formal or summary enquiries made under the said Code, namely,— (Notn. No. 2302, *B.G.G.* 1890, Pt. I. p. 289.)

	For every 100 words or fraction of 100 words—
Copying Fees—	
(1) 1½ annas.	(1) In the case of English copies.
(2) 1 anna.	(2) In the case of vernacular copies.
(3) Double the ordinary rates.	(3) If the original be in a tabular form, whether in English or the vernacular.
Fees for examining and comparing—	
¼ anna.	For every 100 words or fraction of 100 words.
Translation Fees—	
8 annas.	For the first 100 words or fraction of 100 words.
4 annas.	For every subsequent 100 words or fraction of 100 words.

RULES MADE WITH THE SANCTION AND UNDER THE ORDERS OF THE GOVERNOR IN COUNCIL BY THE COMMISSIONER IN SIND, AND THE COMMISSIONERS, NORTHERN DIVISION, AND SOUTHERN DIVISION, UNDER SECTIONS 152, 158 AND 183 OF THE BOMBAY LAND REVENUE CODE, 1879. (Notn. No. 2459, *B. G. G.*, 1883, Pt. I., pp. 260-261.)

I.—Notices of Demand (Section 152).

1. Notices of demand shall be issued by the

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* Fees for comparing and examining copies of decisions, &c., should be credited to Government. (G. R. No. 3101, dated 20th April 1883, R. D.)

By whom to be issued.

Mámlatdár or Mahálkari within whose charge an arrear accrues.

When to be issued.

2. Such notices shall not usually be issued until ten days after the arrear has accrued.

Amount of notice fee.

3. The costs of issuing notices of demand shall be leviable in the shape of a fixed fee of four annas for each notice, if the amount of the arrear does not exceed Rs. 5, and of eight annas in any other case.

Discretionary remission of fee.

4. The Collector, or the Assistant, or Deputy Collector in charge of a táluka, may, at his discretion, remit the fee in any case, if it shall appear to him that its levy will occasion undue hardship.

II.—Arrest and Imprisonment of Defaulters (Section 158).

Powers of arrest by whom to be exercised.

1. The powers of arrest conferred by section 157, may be exercised by Collectors and by any Assistant or Deputy Collector in charge of tálukas specially empowered by the Collector in this behalf, and by subordinate officers acting in each case under the express authority of a Collector or of any such Assistant or Deputy Collector.

Costs of arrest.

2. The costs of arrest shall be according to the following scale :—

If the amount for the recovery of which the arrest is made—	Rs.	a.	p.
Does not exceed Rs. 25...	0	4	0
Exceeds Rs. 25 but does not exceed Rs. 100	0	8	0
„ „ 100 „ „ „ 500	1	0	0
„ „ 500 „ „ „ 1,000	2	0	0
„ „ 1,000 „ „ „ 5,000	4	0	0
„ „ 5,000	8	0	0

Subsistence money during detention or imprisonment.

3 The subsistence money to be paid by Government to any defaulter under detention or imprisonment shall be fixed by the Collector, or by the Assistant or Deputy Collector who orders the arrest, within the following limits, *viz.* :—

	Not less than Rs. a. p.	Not more than Rs. a. p.
If the defaulter is a European...	1 0 0	1 8 0
If the defaulter is a Eurasian or a Native of Portuguese descent.	0 8 0	1 0 0
In any other case	0 3 0	0 12 0

**III.—Expenses of Sales (Section 183).*

1. The expenses of a sale shall be taken to be

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* *Local Fund Cess on lands sold in default of payment of land revenue.*

Purchasers of forfeited occupancies sold at once should not be required to pay one anna in each rupee of the price realized to local funds, nor should one anna in the rupee of the whole sale proceeds be credited to local cess. But as the one-anna cess is chargeable on arrears of assessment and recoverable as land revenue, the sale proceeds of such lands should be credited in accordance with section 183 of the Land Revenue Code—

(*a*) to expenses of sale,
(*b*) to arrears of—
(1) land revenue,
(2) one-anna cess,

the surplus, if any, being paid to the defaulter. (G. R. No. 2002 dated 10th March 1883.)

6th December 1881.

In exercise of the powers conferred by section 214 of the Land Revenue Code, 1879, and of all other powers enabling him in this behalf, the Governor in Council is pleased to make the following General Rules and Orders in supersession of all existing rules and orders on the same subjects :—

I.—PRELIMINARY.

1. In these Rules and Orders :

(Notn. No. 7368, *B. G. G.*, 1881, Pt I., pp. 795-816.)

Interpretation.

(*a*) words and expressions which are defined in the Code have the same meaning as in the Code ;

(*b*) "Chapter" means a chapter of the Code.

II.—SECURITY TO BE FURNISHED BY REVENUE OFFICERS.

[Sections 23 and 214 (*i*) of the Land Revenue Code, 1879.]

2. The Revenue officers hereinbelow mentioned shall, previously to entering upon their office, furnish security to the amounts respectively entered against their names* :

By what officers and to what amounts security is to be furnished.

	Rs.
Head Accountants ... ... } Mámlatdárs ... ... }	5,000
First Kárkúns to Mámlatdárs	1,000
Second ditto	500
Mahálkari with Treasury	1,500
First Kárkún to ditto	500
Mahálkari without Treasury	500
Treasurer at Poona	80,000
Ditto at Kánara, Kolába and Ratnágiri.	20,000
All other Treasurers	40,000
First Kárkún to Treasurers of Kánara and Ratnágiri	1,000
All other First Kárkúns to Treasurers ...	2,000
Second Kárkún to Poona Treasurer ...	2,000
Kárkúns other than any of the foregoing employed in Huzúr or Mámlatdárs' offices on shroff's work	1,000
Ditto in Mahálkaris' offices...	500

(Notn No. 6331, *B. G. G.*, 1882, Pt. I., p. 707.)

	Rs.
Stipendiary Patels or Village Accountants appointed under section 16 of the Code, whose annual emoluments exceed Rs. 50.	200, or the amount of one year's emoluments of such officer, whichever sum be the smaller.

(Notn. No. 4582, *B. G. G.*, 1891, Part I., p. 568.)

2A. Every person who has furnished no security whatever, shall, on being appointed to officiate in any office such as is referred to in Rule 2, whatever the probable duration of his tenure thereof, furnish before entering thereon security to the amount required in respect of such office by the said rule or to such smaller amount as the Collector in the particular case may deem reasonable and sufficient.

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* Instruments executed by Government officers and their sureties to secure the due accounting for property received by such officers by virtue of their office are exempt from stamp duty. (*Bombay Government Gazette* of 1889, p. 1008 *et seqq*—vide *infra* Part X.)

[To be inserted in the margin of Rule No. 2 of the Rules made under Sections 23 and 214 (*i*) of the Bombay Land Revenue Code, 1879, printed at page 8 of the Compilation of Rules in force in the Revenue Department.]

[Notification No. 6318, *Bombay Government Gazette*, 1897, Part I, page 1518.]

To the list in Rule 2 add—

Kárkúns or clerks who write the registers of copying, comparing, search and inspection fees, and take charge of moneys advanced for those purposes, in Revenue Courts.	Rs. 200.

How to be calculated.

two annas in the case of moveable property, and four annas in the case of immoveable property, or in either case $\frac{1}{64}$th of the amount, if any, realized by the sale, whichever is the greater.

Penalty leviable under Section 148, B. L. R. C.

The Governor in Council has directed that the maximum penalty leviable under section 148 of the B. L. R. C., 1879, in default of payment of land revenue shall not exceed one-fourth of the amount of land revenue overdue.

It should be understood that resort is only to be had to the provision of section 148 in the case of ryots who are known to be able to pay but wilfully delay to do so. A penalty imposed may be remitted if the officer imposing it afterwards finds reason to believe that the ryot was not able to pay punctually. (G. R. No. 2485, dated 27th March 1883, R. D.)

Notes of Orders on Procedure, &c.

Award of costs to parties in cases under the Land Revenue Code.

Inasmuch as the office of any authority holding a summary inquiry under the provisions of the Bombay Land Revenue Code is a Civil Court for the purposes of such inquiry, such court may direct by whom the costs of each party are to be paid, whether by himself or by any other party to the inquiry and whether in whole or in what part or proportion. (G. R. No. 4468 of 10th July 1882, R. D.)

Mode of serving processes under the Land Revenue Code.

Processes in summary and formal enquiries under the Bombay Land Revenue Code, 1879, are to be served at the hands of persons temporarily employed for the purpose, and the charge on their account is to be debited to 'Land Revenue'. (G. R. No. 7350 of 21st October 1882, R. D.)

Dwelling-houses not to be broken into for the purpose of recovery of arrears.

No doubt, on the analogy of the English law and of the law now expressly applied by the Indian Legislature to our Civil Courts, it would be held that a dwelling-house may not be broken into for the purpose of distraining goods for the recovery of arrears of land revenue. (G. R. No. 9982 of 19th December 1884, R. D.)

Forms of Warrant of distraint.

No form of warrant of distraint is necessary under section 154, Land Revenue Code.

The Code does not require any form of warrant and the order may take the form of an ordinary order in the course of correspondence. (G. R. No. 1302 of 15th February 1889, R. D.)

Costs of Partition of Estates.

Vide Appendix N., p. 67.

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2 B. An officer who has furnished security to any amount required by Rule 2, shall not ordinarily, on being temporarily appointed to officiate in any office for which security to a greater amount is required by Rule 2, be required to furnish additional security unless his tenure of such office is in the opinion of the Collector likely to last more than three months.

2 C. Every officer appointed to officiate in any office such as is referred to in Rule 2, shall, if his tenure thereof is in the opinion of the Collector likely to last more than three months, furnish before entering thereon the full security required by Rule 2 in respect thereof.

Form of security.

3. It shall be at the option of the officer required to furnish security to deposit Government paper or to execute a bond for the amount of his security.

Number of sureties.

If he executes a bond, the number of sureties shall be one or more, at his option, if the amount of security does not exceed Rs. 1,000; and, if the amount of the security exceeds that sum, shall be not less than two.

Duties of heads of offices in respect of securities.

4. Heads of offices under whom any officer required to furnish security is serving will be held responsible for seeing that the necessary security is duly furnished, and that it is good and sufficient both at the time it is first furnished and afterwards, until such time as the officer leaves the office or is transferred to an appointment in which security is not required.

For this purpose heads of offices shall carefully scrutinize the security and satisfy themselves as to its sufficiency both when it is first offered and also once a year after it has been accepted, and if they deem it insufficient shall require the officer concerned to furnish additional or fresh security.

Care must be taken that no one person's security is accepted in behalf of a disproportionately large number of officers, whether such officers belong to the same office or department or not.

Annual statements to be submitted to Commissioners of sufficiency of securities.

5. The Collector, after obtaining similar returns from all heads of offices subordinate to him, shall submit annually to the Commissioner, on or before the 30th June, a statement in the form of Appendix A., showing the results of inquires as to the sufficiency of the security of each officer in his district required by Rule 2 to furnish security.

Surety's property not to be sold without previous report to Commissioner.

6. In the event of any surety being proceeded against under section 187 of the Land Revenue Code, for recovery of the amount, or of any portion of the amount, for which he has become liable, a report shall be submitted to the Commissioner

before the sale of any property of such surety is commenced.

III.—DISPOSAL OF LAND, &c., THE PROPERTY OF GOVERNMENT. [Sections 37, 62 and 214 (*i*).]

Collector to dispose of land, &c., only as authorized in these Rules.

7. Land and all rights in or over the same or appertaining thereto, which are the property of Government, may be disposed of by the Collector in any manner authorized by the following Rules, but not otherwise, except with the previous express sanction of Government:—

Notn. No. 3318, *B. G. G.*, 1890, p. 465.)

(A) The occupancy of salt lands, or of lands occasionally overflowed by salt water, should not ordinarily be disposed of, without first ascertaining by reference to the Salt Department, whether they are wanted or likely to be wanted for salt manufacture.

(B) On receiving an intimation from the Collector of Salt Revenue that any unoccupied land at the disposal of the Collector of the district is wanted or likely to be wanted for salt manufacture, the Collector of the district may, if he sees no objection to its appropriation for that purpose, dispose of such land to the Salt Department, and shall, in such case, cause a note to that effect to be made in the Village Register, and shall also cause to be cancelled any entry in that register as to any assessment fixed on it as land appropriated for purpose of agriculture.

Such land shall thenceforth be at the disposal of the Collector of Salt Revenue, subject to the general orders of Government, to let for the manufacture of salt or to make other arrangements as to its use for that purpose, on such conditions and for such period as, subject to the said orders, he may deem fit.

(C) If an occupant of unalienated land wishes to appropriate the same or any part thereof to the manufacture of salt or the construction of salt-pans, he shall apply to the Collector of the district for permission to do so. The Collector of the district, if he sees no objection to such appropriation, shall consult the Collector of Salt Revenue as to the terms on which such appropriation should be allowed, and may then either—

(*a*) require the applicant to relinquish his occupancy rights and to enter into an agreement that such land shall be placed at the disposal of the Salt Department, subject to a lease in favour of the applicant, on such terms and for such period as the Collector of Salt Revenue, under the general orders of Government, may require, *or* may

(*b*) permit the appropriation applied for, without requiring the occupant to relinquish his occupancy rights either—

(1) on payment of the fine leviable under section 65 and the new assessment, which may be leviable under section 48, *or*

(2) on such terms as may be specially agreed on under section 67 of the Land Revenue Code.

(1) *Transfer of land to Railway Companies or to State Railways.*

Transfers to be regulated by orders of Government.

8. The transfers of land, whether permanently or temporarily, to Railway Companies or to State Railways shall be regulated by the orders of the Government of India and of the Governor of Bombay in Council from time to time issued in this behalf.*

(2) *Alienations.*

Sale of land revenue-free.

9. No land may be sold revenue-free in perpetuity without the previous sanction of the Government of India, excepting, subject to the previous sanction of the Governor of Bombay in Council, small plots of unoccupied waste land not exceeding ten acres in extent as may be required for buildings or gardens; and, except as is otherwise provided in these Rules, no land of any description may se sold revenue-free for a term without the sanction of the Governor of Bombay in Council.†

Revenue-free grants for religious or charitable purposes.

10. Revenue-free grants may be made by the Collector, with the previous sanction of the Commissioner, of land not exceeding in each instance a quarter of an acre in area for the purposes of religious or charitable edifices or institutions, but exemption from assessment shall only be granted for sufficient reasons and not invariably as a matter of course. Land in the neighbourhood of railway-stations shall only be granted revenue-free for dharmshálas, if such dharmshálas, when erected, are to be in the charge of the Local Fund Committee.

Sanads to be issued when revenue-free grants are made.

11. In order to provide against abuse of any grant made under the preceding Rule, a sanad, in one of the forms prescribed in Appendix B., shall be issued to the grantee by the Collector. If a revenue-free grant is made with the sanction of Government for any purpose not mentioned in the preceding Rule, the form of sanad to be issued by the Collector will be specially prescribed by Government.

Every sanad issued under this Rule shall be registered in the register prescribed by Rule 57.

The Collector and all Revenue officers subordinate to him shall exercise due vigilance to prevent the terms of such sanads being either exceeded or evaded.

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* The rules and orders relating to acquisition of land for Railways, are given in Part II of this compilation.

† *See* Appendix K. containing Government Resolution on alienation of Government land.

(Notn. No. 4771, *B.G.G.*, 1885, Pt. I., p. 760, in substitution of Notification No. 721, *B. G. G.*, 1884, Pt. I., p. 59.)

Revenue-free grants be made in the Dhárwár District to Shetsandis.

11*A*. In the district of Dhárwár, whenever unoccupied land is available for the purpose, the Collector may make a revenue-free grant of land bearing an annual assessment not exceeding Rs. 30 to any Shetsandi who is willing to hold the same in lieu of the usual annual cash remuneration : provided that no such grant shall be made of land of which the value exceeds five hundred rupees.

Sanad unnecessary in such cases.

In the case of a grant made under this Rule no sanad need be issued to the grantee, but it is to be distinctly understood that the revenue-free tenure is granted in consideration of the Shetsandi's service only, and that the land will be resumable at the pleasure of Government.

Transfer of land, &c., belonging to Government not to be made to Municipalities or Local Fund Committees without previous sanction of Government.

12. No revenue-free grant of land and no right in, or over, or appertaining to, any land belonging to Government, may be made to or exercised by a Municipality or a Local Fund Committee without the previous sanction of Government. When any such transfer or exercise of right is sanctioned, it will be made subject to such conditions as Government shall think fit in each case to prescribe.

But nothing in this Rule shall be deemed to prevent the grant of occupancies to Municipalities or Local Fund Committees on the same terms as are applicable to such grants to other persons.

Notn. No. 7609, *B.G.G.*, 1886, Pt. I., p. 930.)

Unoccupied building-sites, &c., within municipal limits to be distinguished from lands forming part of public streets.

13. "Public streets" within municipal limits, "not being portions of provincial high roads or trunk roads specially reserved by Government," vest under section 17, clause (*f*) of the Bombay District Municipal Act in the municipality. The word "streets" must be understood with reference to the definition of that word in section 3 of the Act. It does not include building-sites and plots of open ground which have not been dedicated to public use. Such sites and plots, unless they have already been transferred to the municipality, vest in Government.

In an irregular street or road of varying width, small pieces of ground between the houses and the roadway should be recognized as forming part of the street and therefore vesting in the municipality, unless private individuals have rights thereto. But separate vacant sites between the houses do not vest in the municipality even though they be unenclosed, unless they have been transferred to the municipality by Government.

Questions of rights between Government and municipality how to be dealt with.

When the right to any piece of ground is in dispute between a municipality and the Government, the Collector shall endeavour to decide the dispute in accord-

ance with the foregoing principles. If the Collector is in doubt, or if the municipality does not accept his decision, the case shall be referred through the Commissioner for the orders of Government.

Reservation of mines and mineral.

14. The right of Government to mines and mineral products in all unalienated land having been expressly reserved by section 69 of the Land Revenue Code, the same reservation should be made in every alienation that may hereafter be made in the following terms, or in terms to the same effect (namely):

"This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products, and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences."*

(3) *Grant of Occupancies.*

Occupancies are of two kinds.

15. Occupancies are of two classes, *viz.*, (*a*) occupancies of land to which a survey settlement has been extended, and (*b*) occupancies of land to which a survey settlement has not been extended. The rules concerning each of these classes are given below separately, but are followed by some (*c*) general rules applicable to both: †

(*a*) *Land to which a Survey Settlement has been extended.*

Occupancy of survey numbers how to be disposed of.

16. The occupancy of any unoccupied survey number not assigned for special purposes may, at the Collector's discretion, be granted to such person as the Collector deems fit either upon payment of a price fixed by the Collector, or without charge, or be put up to public auction and sold, subject to his confirmation, to the highest bidder.

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*See Appendix L. for correspondence on the subject of reservation of mines and minerals.

†1. It was not the intention of the Legislature to interfere with the right of an Inámdár to give out unoccupied land in his village or holding for cultivation, or to accept the relinquishment of the same from the occupant, or to exercise the power referred to in section 71 of the Land Revenue Code. (G. R. 5730 of 1st Oct. 1881.) *See* also notes to Rules 32 and 74 of these Rules.

2. There is no objection to the powers contemplated in clauses (*a*) and (*b*) of section 88 of the Revenue Code being conferred upon the Inámdár at once, but none of the powers mentioned in clauses (*c*) to (*f*) of that section can be conferred until a survey settlement has been extended to his village under section 216 of the Code (*vide* the proviso to section 88).

The first step, if the Inámdár is to be invested with any powers under clauses (*c*) to (*f*), is for Government, under section 216 of the Code, to authorize the extension to the Inámdár's village (by notification in the form given in the margin) of the provisions of Chapters VIII to X of the Code which he may desire to have so extended, or of such of them as Government think fit to extend. Section 112 must, of necessity, be amongst the number of the sections to be so extended, when a survey settlement "made, approved and confirmed" under the authority of the Governor in Council, is already in force in the village. And when the existing assessments have not yet been declared by Government to be fixed for a term of years, sections 102 and 103 must of necessity also be included, in order that Government may have power at once to declare them to be so fixed and that the survey settlement may be formally introduced.

Form.

"In exercise of the power conferred by section 216 of the Bombay Land Revenue Code, 1879, the Governor in Council is pleased to authorise the extension of the provisions of sections of the said Code to the village of in the táluka of the district.

By order, &c."

When the above notification has been issued, and when, if necessary, an order has been issued under section 102 and proceedings have been taken under section 103, the requirements of the proviso to section 88 will have been satisfied.

The powers which Government may then deem it fit to confer upon the Inámdár or upon any agent of his may be given, not by notification, but by a commission in the form of Schedule F. of the Code. If powers are conferred under clauses (*a*) and (*b*) of section 88 of the Code at once, without waiting for a survey settlement to be extended to the village under section 216, they, too, must be given by a commission. (G. R. 1338 of 8th March 1881.)

When the final bid at any such auction is for a sum not exceeding Rs 50, the power of confirming the sale may be delegated by the Collector, in his discretion, under section 12 of the Land Revenue Code, to the Mámlatdár.

When special conditions may be annexed to the occupancy of a survey number.

17. If the survey number is to be appropriated for purposes of agriculture, the Collector shall not annex any special condition to the occupancy without the previous sanction of the Commissioner. In any other case the Collector shall annex such conditions thereto as may be directed by Government, or, in the absence of any order of Government, may annex such conditions thereto as he shall think fit, subject to the control of the Commissioner.

(Notn. No. 4892, *B. G. G.*, 1887, Pt. I., p. 651.)

Survey number not already assessed to be assessed before occupancy is granted.

18. If the survey number has not already been assessed, it shall be assessed by the Collector (after reference to the Survey Department, if survey operations are still in progress in the district,) at the rates placed on similar soils in the same or neighbouring villages; and the assessment so fixed shall hold good pending the period for which the current survey settlement for the village in which the land is situated has been guaranteed, and shall be liable thereafter to revision at every general survey settlement of the said village.

When survey numbers may be given at reduced assessment.

19. If it shall appear that the bringing of any survey number under cultivation will be attended with large expense, or if for other special reasons it shall seem desirable, it shall be competent to the Collector, with the previous sanction of the Commissioner, to give the numer revenue-free or at a reduced assessment for a certain term, or revenue-free for a certain term and at a reduced assessment for a further term, and to annex such special conditions to the occupancy as the outlay or other reasons aforesaid may seem to him to warrant: Provided always that, on the expiry of the term or terms so agreed upon, the land shall be liable to full assessment under the rules then in force for lands to which a survey settlement has been extended.*

As a rule no survey number to be given for less than its proper assessment.

20. Except under the provisions of the last preceding rule, or, in places in which special rules for the encouragement of the cultivation of waste lands may be sanctioned by Government, under the provisions of such rules, no survey number on which the assessment has been fixed is to be let for less than the amount of such asessment, in consequence of its having been long waste or for any other reason whatever.

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* For form of lease on special terms to be granted under Rule 19, *see* G. R. No. 7033, dated 3rd September 1884, at end of Appendix Q to this part (pages 70, 71.)

(b) Land to which a Survey Settlement has not been extended.

Grants of salt-marsh lands for reclamations.

21. The reclamation of salt land or land occasionally overflowed by salt water, provided it is not required or likely to be required for salt manufacture, should be encouraged whenever there is a reasonable prospect of success, and the occupancy of such land may be granted by the Collector subject to the confirmation of the Commissioner, on the following maximum terms, and with such modifications in particular cases as may be deemed fit:— (Notn. No. 3318, *B. G. G.*, 1890, Pt. I., p. 465.)

(1) no revenue to be charged for the first ten years;

(2) revenue at the rate of four annas per acre to be levied for the next twenty years on the whole area granted, whether reclaimed or not;

(3) at the end of thirty years the land to be assessed to the land revenue and to be continued under the rules then in force for land to which a survey settlement has been extended;

(4) any portion of the land appropriated for public roads to be exempt from revenue;

(5) if half the area is not reclaimed at the end of five years, and the whole at the end of ten years, or if the reclamation is not carried on with due diligence within one year, the grant to be cancelled, but may be re-granted at the discretion of the Collector.

Occupancy of melon-beds.

22. The occupancy of land in the beds of rivers used for growing melons shall be sold* annually by auction to the highest bidder for the term of one year or such further period as the Collector thinks fit, the bidders being informed that under Rule 53 such land will not be held liable for Land Revenue.

Occupancy of building-sites.

23. The occupancy of building-sites shall ordinarily be sold by auction to the highest bidder whenever the Collector shall be of opinion that there is a demand for such sites; but the Collector may, in his discretion, dispose of the occupancies of such sites by private arrangement, either upon payment of a price fixed by him, or without charge, as he shall deem fit.

Auction-sales of occupancies of building-sites where to be held and by whom to be confirmed.

24. Auctions held under the last preceding Rule shall ordinarily be conducted in the town or village in which the land of which the occupancy is to be disposed of is situated, and the power of confirming

* The Collector may use his discretion in dealing with applications for such sales. (G. R. 8931, R. D., dated 21st December 1886.)

the sales shall ordinarily be delegated by the Collector, under section 12 of the Land Revenue Code, to the Mámlatdár or Mahálkari, but on these points the Collector may in special cases give such directions as he shall deem fit.

Periods for which and conditions on which occupancies of building-sites are to be disposed of.

25. Occupancies of building-sites shall ordinarily be disposed of for ninety-nine years, but subject to an annual ground-rent, the amount of which should be regulated by the value of the site, provided that—

(1) when, as in the case of building-sites at hill-stations, Government have sanctioned special rules, such rules shall be followed;

(2) the occupancy of land near a railway-station or in any situation where it is likely to become valuable or to be required for any public purpose, shall not be disposed of for long periods; and the occupancy of land near a railway-station shall not be disposed of without the previous sanction of the Commissioner, nor while the line is under construction without first consulting the railway authorities;

(Notn. No. 4892, *B. G. G.*, 1887, Pt. I., p. 651.)

(3) the occupancy of land of the nature described in the last clause or of land in towns and other places of considerable size or of increasing importance shall be disposed of subject to such conditions as to the style and size of the buildings to be erected thereupon as Government shall in any case direct.

(4) in any case the ground-rent instead of being rendered annually may, with the consent of the Collector, be paid by the occupant at the time of the grant of the occupancy, or at any subsequent time, in a lump sum at once for the whole period of the lease or for the whole of the still unexpired period of the lease, as the case may be, a note of such payment being made at the foot of the lease or agreement which shall be executed in respect of the occupancy under Rule 31 or 32.

(Notn. No. 4067, *B. G. G.*, 1883, Pt. I., p. 433.)

In certain cases lands must be marked out into lots and maps prepared.

26. When the occupancy of land, such as is described in clauses (2) and (3) of the last preceding Rule is to be disposed of, the land should in the first instance be marked out in convenient lots and mapped in such a manner that persons desirous of becoming occupants may clearly know what plots are available.

Due provision should be made in the plans for roads and approaches and access of air and light, and careful regard should be had to sanitary requirements.

Substitution of a new village-site for an old one.

27. Whenever a new village site is established in lieu of a former one, which it is determined for any reason to abandon, the new site shall be carefully marked out and

mapped in the manner prescribed in the last preceding section, and an agreement shall be taken, in the form of Appendix C., from each registered occupant previous to his being permitted, under section 60 of the Land Revenue Code, to enter upon occupation of any lot.

Establishment of entirely new village-sites.

When an entirely new village-site is established, or an addition is made to an existing site, the same provisions shall be observed for demarcating such new or additional site, but the disposal of the lots therein will be made under the rules ordinarily applicable to the disposal of building sites.

Proprietary right in building-sites not to be parted with.

28. In every case of the disposal of a building-site the occupancy only and not full proprietary right in the soil is to be granted.

Disposal of occupancy of land to which foregoing rules are inapplicable.

29. The occupancy of land to which none of the foregoing Rules is applicable, and concerning which no special orders have been passed by Government, shall be disposed of in such manner, for such period and subject to such special conditions, if any, as the Collector, subject to the control of the Commissioner, shall deem fit.

(c) General Rules applicable to all Occupancies.

Upset-price to be placed on all occupancies sold by auction.

30. Whenever an occupancy is sold by public auction, an upset-price shall, if the Collector thinks fit, be placed thereon in order to guard the revenue against loss and to prevent applications being made for such occupancies when they are not really wanted.

When leases are to be granted.

31.* Whenever the occupancy of land is granted on special terms, whether as to the amount of assessment or as to the conditions of the

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* Memo. from the L. R. :—

Lessees holding over.—"The Transfer of Property Act, 1882, has not been extended to this Presidency, but its section 116 expresses what is in reality the general law as to the effect of a lessee holding over. His lease becomes thereby renewed from year to year and six months' previous notice to quit may be given for the purpose of terminating the lease at the close of any year of tenancy.

"2. But in the case of leases which entitle the lessees to a renewal of their lease on its expiration 'on the same terms as are herein contained or on such other terms as shall then be agreed upon,' the proper course will be for the Collector to serve each one with a notice reminding him that his lease has expired and that as he is holding over he is liable to be ejected at the close of the current year on receipt of six months' notice, that he should consider the said notice to be a notice to quit at the end of the current year (care being taken that six months of the current year have still to run when it is served) and that the notice will be enforced unless in the meantime he applies for a renewal of the expired lease when such his application will be considered. If an application for a renewed lease is made there will be no objection, I presume, to its being granted." (G. R. No. 2028, 10th March 1883, R. D.)

tenure, a written lease* shall be executed by the Collector clearly setting forth the terms of the grant.

Every such lease shall be in a form sanctioned† by Government, and, if no suitable form has been already so sanctioned, reference shall be made and a sanctioned form obtained before the lease is executed.

A duplicate shall be kept of every lease executed under this Rule.‡

Agreement to be executed by the intending occupant, when no lease is granted.

32. In every case in which a lease is not executed under the last preceding Rule, an agreement, in the form of Appendix D., shall be taken from the person who is to become the registered occupant, and every such agreement shall be endorsed by two respectable witnesses and by the patel and village accountant of the village in which the land to which it relates is situate, to the effect prescribed below the said form; and the Mámlatdár or Mahálkari who takes the said agreements will be held responsible for exercising due care§ in ascertaining the identity of the persons signing the same, and their fitness to be accepted as occupants responsible for the payment of land revenue, notwithstanding that the agreements have been duly endorsed as hereinbefore required: Provided always that no such agreement shall be necessary when an agreement, in the form of Appendix C., is taken under Rule 27.

All agreements taken under this Rule or under Rule 27 shall be kept in separate files in the records of the Mámlatdár or Mahálkari.‖

Village accountants to prepare agreements under Rules 27 and 32 without charge, when so desired.

33. It shall be the duty of every village accountant, if so desired by any occupant in his village or by any person about to become an occupant of land in his village, to prepare any agreement that

*Under section 8 of the Indian Stamp Act, 1879, the Governor General in Council has exempted both prospectively and retrospectively all leases granted under Rule 31 from payment of stamp duty. (Notification No. 5855, *B. G. G.*, 1889, Pt. I., p. 1008.)

†Leases which require alterations in, or additions of special clauses to, the sanctioned form should be prepared by the Solicitor to Government at the expense of the lessees. (G. R. No. 3208, R. D., dated 16th May 1882.)

‡G. R. No. 8959, R. D., dated 6th December 1883, prescribes a form of register in which all leases granted under this rule are to be entered.

§His Excellency the Governor in Council is pleased to direct that Aval-kárkúns may, during the absence of Mámlatdárs from head-quarters, accept on their behalf notices of relinquishment under section 74 of the Land Revenue Code and agreements under Rules 32 and 75 of the Rules framed thereunder. Whenever Mámlatdárs accept, without further inquiry, notices of relinquishment and agreements executed and duly endorsed by an Aval-kárkún, they will be held by Government to have exercised the due care enjoined by Rule 76 of the Rules framed under section 214 of the Land Revenue Code. (G. R. 1743, dated 2nd March 1889, R. D.)

‖ As to alienated villages, *see* note to Rule 74 of these Rules.

may be necessary under either Rule 27 or Rule 32 without fee or charge of any kind.

A village accountant who prepares any such agreement shall affix his signature beneath the words "written by" on the lower left-hand corner of such agreement.

Form of written permission to occupy under section 60.

34. The permission in writing to be given by a Mámlatdár or Mahálkari under section 60 of the Land Revenue Code to enable an intending occupant to enter upon occupation shall be in the form of Appendix E.

No such permission shall be given until either a lease or an agreement has been duly executed and delivered under either Rule 31 or Rule 32 or under Rule 27, as the case may be.*

(d) *Special Rules for Sites of certain Cities and Towns.*

Special rules for the sites of Ahmedabad, Broach, Surat, Ránder and Bulsár.

34*A*. Except as is otherwise provided in Rule 34*G*., nothing in Rules 15 to 34, both inclusive, shall be applicable to the grant of occupancies of lands within the sites of the cities and towns of Ahmedabad (inclusive of the suburb of Saraspur), Broach, Surat, Ránder and Bulsár. (Notn. No. 8325, *B.G.G.*, 1885, Pt. I., pp. 1203-4.)

To the said lands the provisions of the next following Rules 34*B*. to 34*J*., both inclusive, shall apply.

Disposal of strips of land adjacent to existing building sites.

34*B*. Whenever the holder of a building-site within any of the said sites desires to acquire any small strip of ground belonging to Government which is adjacent to his site and which could not reasonably be dis-

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* Memo. from the L. R.:—

"The rules relating to city surveys and to lands to which such surveys had been extended, which were in force when the Bombay Land Revenue Code became law, were specially saved by paragraph 3 of section 2 of that Code. Unless, therefore, they have since been superseded by some new rules or orders passed under the Code they are still in force.

"2. The general rules and orders prescribed by Government under section 214 of the Code in Notification No. 7368 of 6th December 1881 (*Bombay Government Gazette* for 1881, page 795), were made in supersession of all existing orders *on the same subjects*. Anything contained in those general rules and orders which is applicable to city surveys and the lands affected by them must therefore be deemed to supersede previous rules or orders on the same subjects, but except to such extent as they may have been thus superseded the old rules and orders are still in force.

"3. So much of Nos. 16—20 and 30—34 of the general rules and orders framed under section 214 of the Land Revenue Code as is applicable to such lands as come under a city survey must be deemed to apply to them and to supersede any previous rule inconsistent herewith. I do not think it will be found that the previous rules and orders applicable to city surveys have been materially affected; but if they have, means can be taken for saving them from supersession as regards any essential point if the City Survey Officers bring the matter to notice." (G. R. No. 2218, 17th March 1883, R.D.)

posed of by the Collector as a separate site, the Collector may, if he thinks fit and notwithstanding anything contained in Rule 9 to the contrary, dispose of such strip to the said holder by sale, subject to the same tenure and to payment of ground-rent or assessment at the same rate, if any, on which he holds the said site.

Mode in which other lands may be disposed of.

34*C*. Except as provided in the last preceding rule, the Collector shall not:

(*a*) dispose of the proprietary right in the soil of any land, within the site of any of the said towns or cities, or

(*b*) grant the occupancy of any land therein for any greater period than is prescribed in Rules 34*E*., 34*F*. and 34*G*., respectively.

Occupancies may be granted for agricultural or non-agricultural purposes.

34*D*. The occupancy of any unoccupied land within the site of any of the said towns or cities not assigned for special purposes may, at the Collector's discretion, be granted to such person as the Collector deems fit either for purposes of agriculture only or for other purposes.

Terms on which building-sites may be disposed of.

34*E*. The occupancy of land for building-sites shall be granted under written leases at a ground-rent of two pies per square yard per annum on such terms and in such form as shall from time to time be approved by Government, for terms expiring on the date fixed in this behalf by Government for each city or town.

Terms on which lands intended for future building-sites may be temporarily disposed of.

34*F*. The occupancy of land eventually intended for building-sites, but of which the immediate disposal for the said purpose appears to the Collector to be undesirable, may be let, under written leases in a form approved by Government, for short terms not exceeding in any case seven years, at a ground-rent of one anna per square yard per annum. It will be a condition of such leases that no permanent building shall be erected upon the land, or, which amounts to the same thing, that at the end of the term the land shall be restored by the lessee in the same condition in which he takes it.

Terms on which lands may be disposed of for agricultural purposes only.

34*G*. The occupancy of land granted by the Collector for purposes of agriculture only shall be granted for terms of one year only.

An agreement in the form of Appendix D shall be taken from every person who is to become a registered occupant of land under this section, and the provisions of Rule 32 shall be applicable to every agreement so taken.

This rule shall not be deemed to apply to agricultural lands which, though situated within the site of any of the towns or cities aforesaid, are subjected to a survey settlement similar to that applied to lands of the same description outside the said sites. Such lands shall be subject to the same rules as those last named.

Upset price fixed for certain occupancies.

34*H*. Except under special circumstances, no sale of an occupancy under Rule 34*E* shall be made by the Collector for less than one rupee per square yard.

Method of disposing of occupancies.

34*I*. The occupancy of lands within the sites of the towns and cities aforesaid shall ordinarily be sold by auction to the highest bidder; but the Collector may in his discretion sell the same by private arrangement.

Form of written permission to occupy.

34*J*. The permission in writing to be given by a Mámlatdár or Mahálkari under section 60 to enable an intending occupant to enter upon occupation shall be in the form of Appendix E.

No such permission shall be given until either a lease or an agreement has been duly executed and delivered under Rule 34*E* or 35*F* or 34*G*, as the case may be.

In each of the cities of Ahmedabad, Surat and Broach the power of a Mámlatdár under section 60 is hereby conferred, under section 19, on the Deputy Collectors in charge of the City Survey.

(4) *Disposal of minor rights.*

Sale of produce of Government trees.

35. The produce of trees belonging to Government may be sold by auction annually.

When any such trees are sold under section 41 of the Land Revenue Code, the sale shall be by auction or otherwise as the Collector may direct. (Notn. No. 1239, *B. G. G.*, 1888, Pt. I., p. 149.)

*Grazing and other similar produce to be ordinarily disposed of by sale for periods of one year.

36. The grazing or other produce of all unoccupied land vesting in Government, whether a survey settlement has been extended to such land or not, and whether the same be assessed or not, and of all land especially reserved for grass or for grazing (except land assigned to villages for free pasturage) may be sold by public auction year by year, either field by field or in tracts, and at such time as the Collector shall determine: Provided that the purchaser's rights over such land shall entirely cease

*His Excellency the Governor in Council is pleased to authorize the Collectors of Sátára, Poona and Khándesh to assign to the Mahálkaris, &c., in their respective districts the power to sell by auction the grazing of all unoccupied land vested in Government within their charges and to confirm the sale when the sum finally bid is below Rs. 50. (G. R. 5431, dated 3rd July 1885, R. D.)

on the dates respectively fixed for the several districts and provinces in the following table, unless, under special circumstances, the Collector shall deem it necessary to extend the time so fixed for any period not exceeding one month :—

Collectorate.	Waste assessed Dry-crop Land.	Waste assessed Rice Land.	Reserved Kurans and unassessed Waste.
Kaládgi	31st March ...	31st March ...	1st May.
Sátára	Do. ...	Do. ...	Do.
Belgaum...	Do. ...	1st December.	Do.
Dhárwár	Do. ...	Do. ...	Do.
Kánara	Do. ...	1st October...	Do.
Other Deccan Collectorates	Do. ...	31st March ...	Do.
Konkan Collectorates...	Do. ...	Do. ...	31st December for cutting, and up to the monsoon for grazing.
Gujarát Collectorates ...	Do. ...	Do. ...	1st May.

Commissioner may sanction disposal of grazing, &c., in any other manner.

37. The Commissioner may, if he thinks fit, sanction the disposal of the grazing or other produce of any land, specified in the last preceding Rule, otherwise than by sale in public auction and for any term not exceeding five years.

Disposal of earth, stone, &c., by the Collector.

38. The Collector may, at his discretion, sell by public auction, or otherwise dispose of the right to remove earth, stone, kankar, sand, muram or any* other material which is the property of Government for such periods in such quantities and on such terms as he thinks fit: Provided that such sale or other disposal be made subject to the privileges conceded by the two next following Rules.

The rate charged by the Collector under this Rule, when the right in question is not put up for sale by public auction, may be either a lump sum, or so much per cubit foot of excavation, or, in the case of a Railway Company requiring land for excavating ballast, so much per mile of the railway-line for which ballast is obtained, or otherwise as the Collector thinks fit.

Villagers may remove earth, stone, &c., for their own use without fee with the permission of the Police Patel.

†39. Any person may, within the limits of the village in which he resides, remove earth, stone, kankar, sand, muram or other material from the bed of the sea or from the beds of creeks, rivers and nálas, or from any unassessed waste land not assigned for special purposes, for his own *bonâ-fide* domestic or agricultural purposes, without payment of fee,

* The right to collect and remove sand in creeks is sold by Government. The right to collect and remove shells from the bed of a creek is equally saleable. (G. R. No. 2143, dated 18th March 1886, R. D.)

† It would be inadvisable as injurious to sanitation to permit villagers to remove earth from village-sites or from localities in the vicinity of villages. (G. R. No. 14, dated 5th Jan. 1886, R. D.

on obtaining the written permission of the Police Patel.

Potters and brick and tile-makers shall be entitled to the same privilege for the *bonâ-fidé* purposes of their trade as well as for domestic and agricultural purposes; but they must first obtain sanction of the Mámlatdár in all cases where an extensive trade is carried on and where excavation of the soil is likely to destroy valuable buildings or land required for public purposes.

If the Police Patel shall refuse permission when the same is applied for under this Rule, an appeal shall lie to the Mámlatdár. But, in such cases as he shall think fit, the Collector may prohibit the Mámlatdár, or the Police Patel, from giving permission without obtaining his previous sanction.

Removal of earth, &c., from village tanks.

40. Any person may, with the sanction of the Police Patel, take free of all charge from village tanks as much earth, stone, kankar, sand, muram or other material as he requires, provided that no stones shall be removed that may have fallen in from the banks of built tanks, and that no excavation shall be made within ten cubits of the foot of the embankment of any such tank.

Collector may permit removal of earth, stone, &c., without charge for works of public utility.

41. The Local Funds, Public Works, and other public Departments and Municipalities may, with the permission of the Collector*, and subject to his supervision, remove earth, stone, kankar, sand, muram and any other material from the bed of the sea or from the beds of rivers, creeks, nálas or public tanks, or from any unassessed land, or any unoccupied assessed land not assigned for special purposes, for works of public utility without payment, whether such works be constructed departmentally or by contract.

(5) *Miscellaneous.*

Sales under these Rules how to be conducted.

42. Every sale by auction, under these Rules, or in pursuance of any of the provisions of the Land Revenue Code, shall be conducted, so far as may be, in accordance with sections 165, 166, 170 to 177, both inclusive, and 180 of the said Code. The proclamation and written notice of sale required to be issued under sections 165 and 166 of the said Code shall be in one of the forms contained in Appendix M, or as near thereto as may be :— (Notn. No. 1239, *B. G. G.*, 1888, Pt. I., p. 149). (Notn. No. 4297, *B. G. G.*, 1884, Pt. I., p. 417).

Provided that in conducting the following sales :

(*a*) Sales of the right of grazing and of the right to take or cut grass in waste lands; (Notn. No. 150, *B. G. G.*, 1889, Pt. I., p. 21).

(*b*) Sales of the right to take the fruit of specified Government trees for a specified period; and

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* The Collector is not bound to give this permission in every case. (G. R. 7562 of 13th November 1888, R. D.) The power to give this permission may be delegated by the Collectors to Mámlatdárs. (G. R. 4191 of 23rd May 1884, R. D.)

(*c*) Sales of dead wood,—

the procedure shall be in accordance with such orders as may from time to time be made by the Collector, either generally or specially in this behalf, instead of the procedure prescribed in sections 165 and 166 of the Bombay Land Revenue Code.

IV.—ASSIGNMENT OF LAND FOR SPECIAL PURPOSES. [Section 38.]

Cattle-stands and dhobis' and potters' grounds.

43. Burial and burning grounds, spots near villages on which the village cattle stand, and lands for the use of village dhobis and potters should be assigned for these purposes respectively, according to the reasonable requirements of the villagers without charge.*

V.—ALLUVION AND DILUVION. [Sections 47 and 214 (*i*).]

Holders of land with shifting boundaries may enjoy up to such boundaries.

44. When a holding is bounded on any side by the bank or shore of a river,† creek or nála, or of the sea,‡ the holder will be permitted, subject in the case of unalienated holdings to such orders as may be legally passed under Rule 46, to occupy and use the land up to such bank or shore, notwithstanding that its position may shift from time to time.

Changes in holdings from alluvion and diluvion to be ascertained and recorded.

45. It shall be the duty of the village officers, subject to the orders of the Mámlatdár or Mahálkari and of the Collector or of the Assistant or Deputy Collector in charge of the táluka, to ascertain from time to time and to record the changes caused by alluvion and diluvion in every holding subject to such changes.

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* The phrase "village cattle" does not include the cattle of any roving grazier who may choose to squat for a few months on the public ground of a village. (I. L. R. 2 Bom. 110.)

† Whatever may be the nature of the tenancy, the occupants of the land abutting on the stream, and not the Government, are entitled to the enjoyment and benefit of the water as it flows past. No doubt, all the occupants of land on the banks being equally entitled, each occupant or set of occupants is bound to use his right so as not materially to interfere with an equally beneficial enjoyment of it by the other occupants. An action will lie where the use by any of the occupants of the common right is unreasonable. But Government cannot arbitrarily curtail or interfere with, at any time during the occupancy, the enjoyment of the water by each occupant as it existed at the commencement of his occupancy and which must have constituted a most important consideration in fixing the amount of land assessment which each occupant agreed to pay. (Printed Judgments of 1882, p. 58. S. C. I. L. R. 7 Bom. 209.)

‡ The right of the public to fish in the sea, whether it and its subjacent soil be or be not vested in the Crown, is common, and is not the subject of property. This right in certain portions of the sea may be regulated by local custom. Members of the public exercising the common right to fish in the sea are bound to exercise that right in a fair and reasonable manner, and not so as to impede others from doing the same; and conduct which prevents another from a fair exercise of his equal right, if special injury thereby results to him, is actionable. I. L. R. 2 Bom. 19.

46. The village officers shall report to the Mámlatdár when the area of any newly formed alluvial land or island, or of any abandoned river-bed, to which the provisions of section 46 or of section 64 of the Land Revenue Code apply, exceeds the limit prescribed in those sections, and the Mámlatdár shall deal with it under the orders of the Collector or Assistant Collector in the manner prescribed in the said sections respectively.

The officer who does the *jamábandi* to give effect to provisions of sections 46 and 64.

Newly-formed alluvial lands and islands, and abandoned river-beds, to which the provisions of the said sections do not apply, may be disposed of by the Collector under the rules and orders applicable to unoccupied land belonging to Government.

Land to which sections 46 and 64 do not apply, to be disposed of by the Collector.

47.* Claims to decrease of assessment on account of diluvion under section 47 of the Land Revenue Code shall be heard and disposed of by the officer who makes the annual *jamábandi* settlement.

The officer who does the *jamábandi* to dispose of claims under section 47.

In order to provide against undue loss of revenue, care must be taken, whenever such claims are allowed, to trace out and assess the corresponding accretions of alluvial land, if any, in the same or in some other village.†

VI.‡—PURPOSES TO WHICH THE APPROPRIATION OF UNALIENATED LAND IS PROHIBITED. [Sections 48 and 214 (*c*) and (*i*).]

48. Land included as unarable in a survey number assessed for purposes of agriculture only may ordinarily be brought under cultivation without extra charge by the occupant of such number, or by any one claiming under him, but such cultivation is prohibited in the following cases (*viz.*) :—

Land occupied by a road or tank, &c., in an occupant's holding, may not be cultivated.

(*a*) when the land is occupied by a road or by a tank used for irrigation or for drinking or domestic purposes ;

(*b*) when the land is used as a burial-ground ;

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* In all cases in which the area of a holding is less than half an acre, only the one condition should be required of the loss by diluvion exceeding one-tenth of the holding affected (G. R. No. 2771 of 12th April 1886, R. D.)

† For rules regarding alluvion and diluvion owing to changes in the course of the river Indus, or other waters, in the Province of Sind, *see* Part XVIII (5) of this Compilation.

‡ Paragraph 2 of section 48 of the Land Revenue Code does not apply to lands assessed under a survey settlement before the date of the Land Revenue Code. The words of the paragraph 'the assessment fixed under the provisions of the Act' are specific, and section 112 declaring existing survey settlements 'to be in force subject to the provision of this Act' does not make the assessment fixed under such existing settlements an assessment fixed under the provisions of the Land Revenue Code. (G. R. No. 4758 of 3rd July 1886.)

(*c*) when the land has been assigned for the use of the village potters, or other public purposes:

Provided that this prohibition shall not apply in the case of a tank, when such tank is used for irrigation only and waters only land which is in the sole occupation of the occupant, or when the privilege of cultivating the dry bed of the tank has been specially conceded to the occupant.

Occupant of an agricultural holding may not destroy or injure the land for cultivation.

49. No occupant of land assessed or held for purposes of agriculture only and no person claiming under any such occupant may make any use of the land so as, in the opinion of the Collector, thereby to destroy or materially injure the land for cultivation.

But earth, stone, &c., may be removed for the occupant's own use.

But, provided this Rule be not infringed, the occupant and any person lawfully in possession of any such land may remove earth, stone, kankar, sand, muram or any other material of the soil thereof for his own *bond fide* domestic or agricultural purposes without previous permission and without payment of fee.

When compounds, &c., may not be used for agriculture.

50. Compounds to bungalows and patches of open ground surrounding houses, not assessed for purposes of agriculture, may not, if the Collector shall on sanitary grounds think fit in any case so to direct, be appropriated to purposes of agriculture, but the grass shall be kept, cut or grazed by cattle.

(Notn. No. 4230, *B. G. G.*, 1888, Pt. I., p. 544.)

Prohibition of growth of sugarcane in and around Poona.

50A.* No occupant of any land within the limits of the city or suburban municipality of Poona or of the cantonment of Poona or within one mile from the said limits may grow sugarcane therein, if the Collector, having regard to the situation and extent of such land or to any other material consideration affecting the same, and after consulting the Sanitary Commissioner, shall be satisfied that the growth of sugarcane in such land is dangerous to the health of residents within the area to which this rule extends, and shall, on this ground, by order in writing addressed to the occupant of the land, prohibit the cultivation of the said crop therein:

Provided that no order, issued by the Collector under this rule in respect of any land in which a sugarcane crop is growing at the date of such order, shall come into effect until two years after the time when the said crop was sown.

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* Occupants of lands irrigated from old wells are exempted from the operation of Rule 50A. (G. R. No. 3038, 2nd May 1890, R. D.)

51. No unalienated land within the site of any city, town, or village may be excavated, without the previous permission, in writing, of the Collector, for any purpose except the laying of foundations for buildings, the sinking of wells and the making of grain-pits. When permission is granted by the Collector to excavate any such land as aforesaid for any purposes other than those above mentioned, such excavation may not be made otherwise than in accordance with such terms as the Collector shall in each case think fit to prescribe.

Excavation of unalienated land within site of village, town, or city prohibited except for certain purposes.

52. No occupant of any land may suffer such land to be or to become overgrown with prickly-pear or rank grass so as to become dangerous to the health or safety of the neighbourhood.

Growth of prickly-pear on land prohibited.

VII.—ASSESSMENT OF LAND REVENUE.

[Sections 52, 100 and 214 (*d*).]

(1) *Unsurveyed Lands.*

53. No assessment shall be placed on land in the beds of rivers used for growing melons. The land revenue chargeable on such land shall be deemed to be included in the price of the occupancy thereof obtained in auction under Rule 22.

Melon-beds not to be assessed.

(2) *Surveyed Lands.*

54. Compounds surrounding bungalows and patches of open ground surrounding houses up to such limit* of area as Government may from time to time fix for each district shall be subject, as regards their assessment to the land revenue, to the same rules as are applicable to the land on which the bungalows or houses stand.

Assessment of compounds, &c.

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* Memo from the L. R :—

"No. 54 of the Land Revenue Code rules gives effect to a previous Resolution of Government. The ground on which *pardi* lands were exempted from assessment, if they did not exceed a quater of an acre, was that they were 'considered to form part of the village-site'. The area in excess of a quarter of an acre was assessed as agricultural land. In the above rule, therefore, drafted by the committee appointed by Government to prepare a body of rules under the Code, it was laid down that such lands 'shall be subject, as regards their assessment to the land revenue, to the same rules as are applicable to the land on which the houses stand.' If the latter land is free from assessment, so will also the *pardi* land be, up to such limit as Government fixed for each district. The provision that the limit should be fixed by Government for each district was inserted because it was understood that the limit of a quarter of an acre had not been universally adopted." (G. R. No. 3171, 23rd April 1883, R. D.)

The maximum admissible area of unassessed Párdi land may be taken to be one-eighth of an acre in the Konkan and one-fourth of an acre elsewhere, but the maximum need not necessarily be allowed and regard should be had to local custom. When a larger area has been sanctioned by adequate authority it may be continued subject to future revision. The matter should be specially noticed in revision settlement reports. (G. R. No. 8293, R. D., of 12th November 1883.)

Survey Rules.

55. The following Rules, unless otherwise directed by Government, shall be observed in the conduct of revenue surveys of lands used, or which may be used, for the purposes of agriculture.

(Notn. No. 4062, B. G. G., 1889, Pt. I., p. 509.)

(1) (*a*) Every occupancy separately recognized in the village accounts, if not less in extent than the mimimum for survey numbers fixed in relation to such land under section 98, shall be separately measured, classified and assessed, and defined by boundary marks, and shall be made a survey number.

(*b*) Every occupancy separately recognized in the village accounts which is less in extent than the mimimum for survey numbers fixed under section 98 in relation to such land, shall, unless the Survey Commissioner otherwise directs, be separately measured, classified and assessed and defined by boundary marks, and the Survey Commissioner may, at any time either by general order or in any particular case or class of cases, direct that such operations shall not be proceeded with unless and until an application accompanied with prepayment of all the costs of such operations, or such portion thereof as the Survey Commissioner may direct, has been presented by the parties interested.

(Notn. No. 5546, B. G. G., 1885, Pt. I., p. 868.)

Recognized shares of survey numbers so defined by boundary marks shall be called "subordinate survey numbers", but shall be regarded for all purposes as recognized shares of survey numbers.

(2) When an occupancy is held by two or more co-occupants in shares, and each of the said occupants has a separate account to which he pays his quota of the land-revenue due in respect of the occupancy separately, but the proper share of each occupant has not been permanently divided from the rest, the entire occupancy shall be comprised in a survey number; and each co-occupant's share therein shall be recorded as a recognized share of such survey number, together with the proportion, reckoned in annas, which such share bears to the whole survey number and the assessment of such share.

(3) All measurements shall be recorded in a book to be kept in such form as shall be prescribed by the Survey Commissioner for each survey. The said books when prepared shall be preserved as a record of the survey.

(4) The original measurements made by the subordinate survey officers employed for the purpose shall be tested by the officers in charge of measuring establishments in such manner and to such extent as the Survey Commissioner shall deem sufficient.

(5) Village maps shall be prepared under the orders of the Survey Commissioner showing each survey number. The positions of the boundary marks of each survey number shall also be shown on the said maps.

(6) For the purposes of assessments all land shall be classed with respect to its productive qualities. The number of classes and their relative value reckoned in annas shall be fixed under the orders of the Survey Commissioner with reference to the circumstances of the different tracts of country to which the survey extends and to the nature of the cultivation.

(7) Every classer shall keep a field-book and record therein the particulars of his classification of each survey number and subordinate survey number and the reason which led him to place it in the particular class to which in his estimation it should be deemed to belong. Such field-books shall be preserved as permanent records of the survey.

(8) A test of the original classification made by the subordinate officers employed for this purpose shall be taken by the officers in charge of classing establishments, in such manner and to such extent as may be directed by the Survey Commissioner. The said test shall be an independent test, that is to say, it shall be made by the testing officer in entire ignorance of the original classer's proceedings or records until it has been completed and its results have been finally determined, when only the original classing valuation and the test valuation shall be compared and their separate results recorded.

(9) When rates of assessment have been sanctioned by Government, the assessment to be imposed on each survey number or subordinate survey number shall be determined according to the relative classification value of the land comprised therein.*

(10) Matters of detail not provided for in the foregoing Survey Rules shall be determined in each survey in accordance with such general or special orders as the Survey Commissioner acting under the general control of Government shall from time to time deem fit to issue.

(3) *General.*

56. When unalienated land assessed or held for purposes of agriculture only is subsequently appropriated† to any purpose unconnected with agriculture, the assessment upon the land actually so appropriated shall be altered in

Alteration of assessment when land assessed or held for agricultural purposes is appropriated to non-agricultural purposes.

*1. A special report for inám villages in tálukas already settled may be dispensed with. The rates sanctioned for adjacent Government villages previously settled may be held applicable to inám villages coming under settlement at any time after the settlement of the mass of the táluka. This order may be deemed sufficient sanction within the meaning of sections 102 and 103 of the Land Revenue Code. (G. R. 6386 of 6th December 1880.)

2. Before the survey rates are introduced in an inámdár's village, an agreement should be taken from the inámdár that he will pay the village officers according to the scale in force in Government villages, in order to ensure the independence of and payment of remuneration to the village officers. (G. R. 7322 of 3rd December 1881.)

† The Collector need not interfere in any way with an occupant merely gathering loose surface stones off a field, whether he sells them or not. (G. R. 4788 of 11th June 1885, R. D.)

accordance with the provisions of paragraph 2 of section 48 of the Land Revenue Code and fixed at the following rates :—

If the village, town or city in which the land is situated is classed, under Rule 66, in Class I	Rs.	10	per acre, or ten times the assessment for agricultural purposes, whichever be the greater.
" " II	Rs.	5	or five times do.
" " III	Rs.	2	or three times do.
" " IV	Re.	1	or double the assessment.

If the village, town or city in which the land is situated is classed, under Rule 66, in Class V, no alteration in assessment shall ordinarily be made.

(Notn. No. 8325, *B. G. G.*, 1885, Pt. I., p. 1203.)

Special rate for lands within the sites of certain cities and towns.

56*A*. Nothing in the last preceding rule shall be applicable to lands within the sites of the cities and towns of Ahmedabad, Broach, Surat, Ránder and Bulsár.

In the said sites the rate to be imposed upon land appropriated as aforesaid shall be two pies per square yard.

VIII.—REGISTER OF ALIENATIONS.

[Section 53.]

Form of register

57. The Register of Alienations to be kept under section 53 of the Land Revenue Code shall be in the form of Appendix F.

IX.—DISPOSAL OF FORFEITED HOLDINGS.

[Sections 56 and 214 (*e*) and (*i*).]

Holdings when to be declared forfeited.

58. Whenever it shall appear to the Collector that an arrear of land revenue cannot be readily recovered by any of the means provided in Chapter XI of the land Revenue Code other than the forfeiture of the holding in respect of which the arrear is due, he shall declare such holding to be forfeited to Government. But care should be taken that such declaration is not made except in cases of necessity.*

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* Whenever the land revenue is in arrear, Government is entitled to sell the land and realize its due, whoever is the defaulter. (I. L. R. 5 Bom. 74.)

2. Section 86 of the Land Revenue Code, 1879, expressly provides that the recovery of dues from inferior holders shall be made under the same rules and in the same manner as prescribed in Chapter XI for the realization of arrears due to the Government. An exception only is made in the case of section 137, in which the paramount right of Government to recover its land revenue over all other claims is recognized ;(1) but every other rule in Chapter XI is applicable. Accordingly, where section 153 provides that the Collector may declare the occupancy in respect of which an arrear of land revenue is due to be forfeited to the Government, so he may declare a holding with which he is dealing under section 86 to have reverted to the superior holder. (G. R. 3089 of 30th May 1881.).

(1) And which obviously could not be made applicable to superior holders.

Under special circumstances the forfeiture of holdings under this Rule may be postponed by the Collector for one or more years.

If the holding in respect of which the arrear is due consists of two or more survey numbers, or of two or more portions of land, or estates separately assessed, and the Collector shall be of opinion that the whole amount of such arrear could be realized by the sale of some one or more only of such numbers, portions or estates, he may, in his discretion, restrict the forfeiture to such one or more of the said numbers, portions or estates.

Forfeited alienated holdings how to be disposed of.

59. The Collector shall cause the land comprised in any forfeited alienated holding to be entered in the records as unoccupied unalienated land, and may dispose of it forthwith, or at any subsequent time, in accordance with the rules and orders in force relating to land of that description: Provided that if the forfeited alienated holding was held for service, and the Collector is satisfied that the failure to pay the land revenue due thereupon arose solely from the inability of the watandár to meet the demand, he may deduct from the forfeited holding a portion of land of which the occupancy-price would be likely to equal the amount of the arrear recoverable, and deal with such portion in accordance with the rules and orders aforesaid, and restore the remainder of the forfeited holding to the watandár, or, with the previous permission of Government, may restore the entire forfeited holding to the watandár, and either remit the arrear of land revenue due, or make such arrangements for its being paid in the future as Government shall in each case sanction.

Forfeited occupancies in certain cases to be sold at the desire of defaulters.

59*A*. If a defaulter shall desire that his forfeited occupancy be put up for sale on the ground— (Notn. No. 7346, *B. G. G.*, 1886, Pt. p. 905.)

(1) that he obtained it on payment of consideration for the same to Government or to the previous occupant; or

(2) that the land comprised in the occupancy has been improved since the occupancy was last granted by Government;

the Collector shall inquire into the circumstances, and if the defaulter's request appears to him to be reasonable, shall put up the occupancy for sale:

Provided that the Collector shall not be bound to confirm the sale of any such occupancy, if he has reason to believe that the bidding thereat has not been *bonâ-fide* or that there has been collusion to recover the occupancy without payment in full of the arrears and charges due to Government, or if in the opinion of the Collector there has been some material irregularity in publishing or conducting the sale, which is likely to have affected the amount

of the highest bid or otherwise to have caused injury to any person.

Disposal of a forfeited occupancy which falls under Rule 59*A*. and is a recognized share of a survey number.

59*B*. If a forfeited occupancy which falls under Rule 59*A*. is a recognized share of a survey number, it shall first be offered by the Collector at such price as it seems to him worth, to the occupants of the other recognized shares in the survey number in the order prescribed in section 99 (*b*). If none of them buys it, the Collector will then deal with the occupancy as is prescribed in Rule 59*A*.

Forfeited occupancies when to be sold in other cases.

60. In cases not falling under the last preceding rules, forfeited occupancies shall be put up for sale for recovery of the arrears due, except when the Collector thinks—

(*a*) that owing to the badness of the times, or to the want of demand for land of the description comprised in the occupancy, or to a combination of the neighbouring landholders, or for any other special cause, there will be no bidders at the sale, or that the highest amount bid will be considerably below the upset price of the occupancy : or

(*b*) that the land comprised in the occupancy is likely to be required either immediately, or within such time as the Collector deems reasonable for any such purpose as is described in section 38 of the Land Revenue Code.

Rules and orders applicable to sales and purchasers of forfeited occupancies.

61. Every sale of a forfeited occupancy, as such, shall be made subject to the same rules and orders as are applicable to the sale of unoccupied unalienated land so far as the same are consistent with the provisions of Chapter XI of the Land Revenue Code; and the provisions of Rules 31 to 33, both inclusive, shall apply to the case of every such sale.

(Notn. No. 7346, *B. G. G.*, 1886, Pt. I., p. 905.)

Forfeited occupancy which is not sold how to be dealt with.

62. If, for any reason, a forfeited occupancy is not sold, the Collector shall either cause the land comprised therein to be entered in the records as unoccupied, and direct that it be dealt with under the rules and orders in force relating to land of that description, or take steps for having it at once lawfully assigned for any such purpose as is described in section 38 of the Land Revenue Code.

Restoration of forfeited occupancies.

63. It shall be in the discretion of the Collector to restore any forfeited occupancy at any time on payment of the arrear in respect of which the forfeiture was incurred, together with all costs and charges lawfully due by the defaulter, or, on

security being given to his satisfaction for the payment of the said arrear, costs and charges within a reasonable period.

No forfeited alienated holding shall be restored without the previous sanction of Government.

Recovery of land revenue due on forfeited holdings which are not sold.

64. When a holding which has been forfeited for default in payment of the land revenue due thereupon is not sold, the arrear payable by the defaulter shall ordinarily be remitted without having recourse to further compulsory process against him. But it is not intended that the right of recovering arrears from defaulters by other means, notwithstanding that their holdings have been forfeited and disposed of without being sold, should be altogether relinquished; in special cases the Collector may, with the sanction of the Commissioner, enforce that right.

X.—LIMIT OF FINES TO BE LEVIED UNDER SECTION 61.

Limit of fine under section 61 to be double what would be leviable in a similar case under section 66.

65. The limit of fine to be levied under section 61 of the Land Revenue Code, when land is unauthorizedly occupied and appropriated to any non-agricultural purpose, shall be double the amount of the fine that would be leviable under section 48 and section 66 of the Land Revenue Code, if the same land being in the lawful occupation of the trespasser had been appropriated by him to the same purpose without the permission of the Collector.*

XI.—FINES LEVIABLE WHEN UNALIENATED LAND ORIGINALLY APPROPRIATED FOR PURPOSES OF AGRICULTURE IS OTHERWISE APPROPRIATED. [Sections 65 and 66.]

Villages, towns and cities to be divided by the Commissioners into classes.

66. For the purpose of determining the amounts of the fines leviable under section 65 of the Land Revenue Code, the Commissioners shall divide the villages, towns and cities in their respective divisions into five classes. As soon as possible after the issue of these Rules, the Commissioners shall publish notifications in the *Bombay Government Gazette*, specifying by name what villages in each district are placed in the first four of

* (1) Section 61 of the Bombay Land Revenue Code has no retrospective effect, *i.e.*, its provisions cannot be enforced in respect of anything done before the Code became law on the 17th July 1879.

(2) But when an unauthorized occupation of land which commenced before the 17th July 1879 has been since continued, the Collector may, unless the occupier has in the meantime acquired a complete prescriptive title to the land,

(*a*) require payment of assessment under paragraphs 2 and 3 of section 61 for the whole period of occupation, except for any time prior to the 17th July 1879;

(*b*) summarily evict the person unauthorizedly occupying;

(*c*) forfeit any crop raised on the land subsequently to the 17th July 1879;

(*d*) require the removal of any building or other construction which the person unauthorizedly occupying the land may have erected thereon;

(*e*) failing obedience to the requisition under (*d*), forfeit the building or construction, whether it was erected before or since the 17th July 1879. (G. R. No. 6202, R. D., 1st September 1890.)

the said five classes; the fifth class comprising "all other villages in the táluka" not entered in the first four classes, and which need not be specified by name. The Commissioners may by similar notifications from time to time alter the said classification.*

Rates of fines ordinarily to be imposed under section 65.

67. In villages, towns and cities included in the first four classes by the said notifications, the fines leviable under section 65 of the Land Revenue Code shall ordinarily be at the following rates :—

Class I	Rs. 250 per acre	of the land actually appropriated to any purpose unconnected with agriculture, and at the same rate in proportion for fractions of an acre.
„ II	„ 150 „	
„ III	„ 100 „	
„ IV	„ 50 „	

In villages, towns and cities included in Class V by the said notifications no fine shall ordinarily be levied.

Notwithstanding anything hereinbefore contained, the Collector may, in his discretion, require the payment of a fine not exceeding the rate prescribed for Class I in any village, town, or city in any of the other classes in any special case.

68. Notwithstanding anything contained in the

[*To be substituted for Rule No. 68 of the Rules made under Section 214 of the Land Revenue Code, 1879, and printed at page 34 of the Compilation of Rules in force in the Revenue Department.*]

[Note. No. 5206, *Bombay Government Gazette*, 1897, Part I, page 1239.]

68. Notwithstanding anything contained in the last two preceding Rules the amount of fine imposable under section 65 of the Land Revenue Code in respect of lands within certain limits, to be from time to time defined by Government by Notification in the *Bombay Government Gazette*, in the neighbourhood of railway stations, large towns, military cantonments, and wherever else Government may deem fit, shall be fixed by the Collector, in his discretion, at rates not exceeding Rs. 5,000 per acre within the areas so specified.

[illegible] to non-agricultural purposes when to be refused.

Broach, Surat, Kánder and Bulsár to a non-agricultural purpose, or to have land so

* For the Northern Division *vide B. G. G.*, 1882, Pt. I., pp. 661 to 679, p. 800 (modified *B. G. G.*, 1883, p. 269); *B. G. G.*, 1882, Pt. I., p. 851, p. 975 and p. 1038; *B. G. G.*, 1883, Pt. I., p. 439; *B. G. G.*, 1885, p. 101 and p. 1090, *B. G. G.*, 1887, p. 413.

For the Southern Division *vide B. G. G.*, 1882, Pt. I., pp. 504 to 506.

For the Central Division *vide B. G. G.*, 1884, Pt. I., pp. 317 to 321; *B. G. G.*, 1886, Pt. I., p. 576.

For Sind *vide B. G. G.*, 1884, Pt. I., p. 508 (Shikárpur), p. 587 (Karáchi), p. 1230, Jacobabad and Upper Sind Frontier); *B. G. G.*, 1886, Pt. I., p. 54; *B. G. G.*, 1889, Pt. I., 28 (Hyderabad).

† *Vide* Notification No. 631, *B. G. G.*, 1883, Pt. I., p. 85, for certain towns in Ahmedabad, Kaira, Broach, Surat and Thána, modified as to Vijalpore, táluka Bulsár, Surat District, by Notification No. 2745, *B. G. G.*, 1887, p. 364; *B. G. G.*, 1886, Notification No. 2286, p. 289 (Poona).

Notification No. 6583, *B. G. G.*, 1888, Pt. I., p. 786, for certain towns in Dhárwár District.

B. G. G., 1888, Pt. I., Notification No. 2930, p. 382; Notification No. 6339, p. 801, for certain towns in Sátára modified *B. G. G.*, 1889, Pt. I., p. 1006, Notification 8916.

appropriated demarcated and made into a separate number under section 116, shall be granted by the Collector, if the superficial contents of the land to which the application relates is less than two hundred square yards.

Amount of fine to be levied under section 66.

69. The fine leviable under section 66 shall be fixed by the Collector at his discretion, but shall not exceed five times the amount imposable by him under section 65 of the Land Revenue Code. For the proposes of this Rule, villages, towns, or cities included in Class V by the notifications issued under Rule 66 shall be deemed to have been included in Class IV.

Special cases will be separately dealt with by Government.

*70. In such cases as Government deem exceptional or unusual the amount of the fine to be imposed by the Collector, whether under section 65 or 66 of the Land Revenue Code, will be specially fixed by Government at such rate as they deem fit, notwithstanding anything contained in the foregoing Rules.

Potters and brick and tile-makers exempted from last five Rules.

71. Nothing in Rules 66 to 70, both inclusive, shall be deemed to apply to potters and brick and tile-makers, who employ any material of the soil of the land in their occupancy for the purposes of their trade, or who erect huts or other buildings on their land for the more convenient pursuit of their trade. In the case of such persons no fine shall be levied under section 65 or 66 of the Land Revenue Code.

Rules 66 to 70 not to apply to Ratnágiri for the present.

72. Nothing in Rules 66 to 70, both inclusive, shall apply, until further orders, to the district of Ratnágiri.

The application of the said Rules to the District of Kánara having by previous orders been stayed, it is directed that on and after the 10th day of June 1890 the said Rules 66 to 70, both inclusive, shall apply to, and be in force in, the said District of Kánara. (Notn. No. 3807, *B. G. G.*, 1890, Pt. I., p. 511.)

**Building concessions at Bándra and other places near Bombay.*— For the present and until Government are in a position to appraise the value of building concession more accurately, each case must be dealt with by the Collector of Thána as a special case under Rule 70, and he must ascertain the market value of the concession and propose a fine which will bear a fair proportion to it for sanction of Government. The Assistant Collector should at once be directed to examine and report fully upon the various areas and situations in the villages contiguous to Bombay and near the line of railways in which agricultural lands are being applied to building purposes, their agricultural assessment, and their value as building sites. It is by no means necessary in the case of such exceptional areas as the suburbs of Bombay that a uniform rate of fine should be notified for each village; but if some general appraisements according to the value of the concession can be sanctioned by Government for particular localities and situations, it will be very easy for the Collector to let these be generally known without any notification in the *Gazette*, and cases may then be submitted for sanction under Rule 70 with tolerable certainty of the approval of Government so long as the local rate of appraisement is adhered to or any departure from it fully explained. (G. R. No. 2784, 12th April 1889, R. D.).

XII.—APPROPRIATION OF LANDS FOR PROHIBITED PURPOSES OR WITHOUT PERMISSION. [Sections 48, 66 and 214 (*i*).]

Procedure to be adopted for summary eviction of occupant.

73. When the occupant, or any tenant or other person holding under or through him, shall appropriate land in his occupation to any purpose prohibited by Rule 48, or unconnected with agriculture, without the permission of the Collector being first obtained, he shall be deemed to have committed a breach of the conditions of his occupancy; and if after reasonable notice he shall fail to restore the land to its original condition, he shall be deemed to have forfeited his right to occupancy of the land, and the Collector may proceed to evict him summarily in the manner provided in section 202 of the Land Revenue Code.

The Collector may remove or cause to be removed any property, moveable or immoveable, belonging to the occupant, standing or existing in or upon the land, and the cost of removal shall be defrayed by the occupant himself or in default by sale of the said property.

XIII.—RELINQUISHMENT OF OCCUPANCIES. [Sections 74 and 214 (*i*).]

Form of notice of relinquishment.

*74. The written notice of relinquishment of an occupancy required by section 74 of the Land Revenue Code to be given to the† Mámlatdár or Mahálkari, shall be in one or other of the forms in Appendix G.

Form of agreement to be entered into by the transferee, if any.

75. The written agreement‡ to be entered into by the persons or by the principal of the persons, if any, in whose favour an occupancy is relinquished, shall be in the form of Appendix D.

Endorsement as to identity required below notices and agreements.

76. Every notice and every agreement given under the last two Rules shall be endorsed by two respectable witnesses to the effect pre-

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* As regards rájinámas and kabuláyats in alienated villages it is necessary to note that they are given in one of the three following ways:—

(1) Absolute relinquishment (Section 74 of the Land Revenue Code).

(2) Relinquishment in favour of another person and the agreement executed by that person (Section 74 of the Land Revenue Code).

(3) Agreement executed by a person taking up new land (Rule 32 of these Rules).

As regards (1) and (2)—

(*a*) In *unsurveyed* alienated villages inámdárs should continue to exercise the powers as they have hitherto been doing, section 74 not being applicable to such villages.

(*b*) In *surveyed* alienated villages, the inámdárs should, as far as possible, under Section 88, be invested where necessary with the powers contemplated by section 74.

As regards (3)—

Section 60 does not apply to alienated lands, and the power of the inámdár in respect of such agreement is unrestricted whether in *surveyed* or *unsurveyed* villages. (G. R. 959 of 10th February 1882.)

† *Vide* G. R. 1743, dated 2nd March 1889, R. D., quoted *supra* in note to Rule 32.

‡ The Court-fee on these agreements has been remitted by the Governor-General in Council under section 35, Act VII of 1870. Notification 7019, *B. G. G.*, 1889, Pt. I, p. 808, art. 24. Exemption from stamp duty under section 8 of Act I of 1879 is given by G. of I. Notification 5855, *B. G. G.*, 1889, Pt. I., p. 1008.

scribed below each of the said forms, and the Mámlatdár or Mahálkari who receives any such notice or agreement will be held responsible for exercising due care* in ascertaining the identity of the person who has signed the same, notwithstanding that such notice or agreement has been duly endorsed as hereinbefore required.

Notices and agreements to be preserved.

77. All notices and all agreements received under Rule 74 or Rule 75 shall be kept in separate files in the records of the village accountant until the expiry of one year after the end of the year in which they were given or executed, and afterwards in the records of the Mámlatdár or Mahálkari. (Notn. No. 2882, *B. G. G.*, 1883, Pt. I., p. 283.)

Village accountants to prepare notices and agreements without charge when so desired.

78. It shall be the duty of every village accountant if so desired by any occupant in his village or by any person in whose favour land is about to be relinquished by any occupant in his village, to prepare any notice or any agreement that may be necessary under Rule 74 or Rule 75, without fee or charge of any kind.

A village accountant who prepares any such notice or agreement shall affix his signature beneath the words "written by" on the lower left-hand corner thereof.

XIV.—SURVEY-FEES IN TOWNS AND CITIES.
[Section 132.]

Classification of towns and cities for the purposes of section 132.

79. Towns and cities to the sites of which a survey has been or may hereafter be extended will be divided by Government, by notification in the *Bombay Government Gazette*, into three classes for the purpose of determining the survey-fees to be levied therein respectively under section 132 of the Land Revenue Code.

The towns and cities hereinbelow mentioned, in which Bombay Act IV of 1868 was in force before the Code became law, shall belong to the following classes :—

Class I.	Class II.
Ahmedabad.	Ránder.
Surat.	Bulsár.
Broach.	Dhárwár.
Karáchi.	Hubli.
Hyderabad.	Bijápur.†
Sukkur.	

Rates of Survey-fees chargeable in each class.

80. Survey-fees shall be levied at one of the following rates according to the class under which each town or city falls :—

Class I.			Class II.		
Rs.	a.	p.	Rs.	a.	p.
5	0	0	3	0	0
4	0	0	2	0	0
3	0	0	1	8	0
1	8	0	0	8	0
0	8	0			

* *Vide* G. R. 1743, dated 2nd March 1889, R. D., quoted *supra* in note to Rule 32.

† Notification 1146, *B. G. G.* for 1885, Pt. I., p. 173.

Rates how and by whom to be fixed.

81. The rates of survey-fees to be paid by the holder of each tenement in each class shall be fixed by the Collector or, subject to revision by him, by such officer as he may empower in that behalf, on a full consideration of the position, value, rental and area of each holder's tenement and of the labour, time and expense involved in the survey of such tenement: Provided that not more than one survey-fee shall be payable in respect of each separate tenement.

Explanation.—"Separate tenement" shall be deemed to include all the area within one ring-fence or in one locality and in the actual possession of one and the same person or family. If any portion of such area is sublet or occupied separately, such portion shall be deemed a "separate tenement."

XV.—RECOVERY OF LAND REVENUE.
[Sections 146 and 214 (*i*).]

Land revenue where and to whom to be paid.

82. All payments of land revenue shall be made to the officers of the village in which such revenue is due: Provided that, with the sanction of the Collector, such payments may in special cases be made into the Huzúr or Táluka Treasuries.*

Agriculturists' instalments in Ratnágiri, Kánara and the khoti villages of Kolába.

83. In the Ratnágiri and Kánara Districts and in the khoti villages of the Kolába District, land revenue payable in respect of lands assessed for purposes of agriculture only shall, until further orders, continue to be paid in such instalments and on such dates as are now usual in those districts and villages respectively.

Agriculturists' instalments in other districts.

84. In all districts except Ratnágiri and Kánara, and in all the villages of the Kolába District, except the khoti villages, the land revenue payable in respect of lands assessed for purposes of agriculture only shall be paid in two equal or nearly equal instalments, on the following dates (namely):—

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*(In answer to an enquiry whether No. 82 of the rules passed under section 214 of the Land Revenue Code is applicable to local funds, ábkári, toll, kurans, &c., farms, the following Government Resolution was passed):—

"Monies payable on account of *kurans* are land revenue. To them undoubtedly No. 82 of the Land Revenue Code Rules is applicable.

"2. But that rule, which has been framed under sections 146 and 214 (*i*) of the Code, is applicable only to actual *land* revenue. Monies which are leviable as an arrear of land revenue may be recovered under the law and rules applicable to the levy of land revenue, if they are not paid when due; but the rules regulating the date when they become due and the times when, the places where, and the persons to whom they should be paid must not be sought in the Land Revenue Code, or in the rules framed under it, but in the enactments and rules relating respectively to such monies. Section 8 of Bombay Act III of 1869, for instance, empowers the Collectors to appoint the agency through which the local fund cess shall be recovered." (G. R., R. D., 2215, dated 17th March 1883.)

(*a*) in the Thána and Kolába Districts (excepting the Khoti villages of Kolába), the 1st January and the 16th February;

(*b*) in other districts—

in villages placed under Rule 85 in Class I, the 10th December and the 10th January;

in villages placed under the said Rule in Class II, the 10th January and the 10th March;

in villages placed under the said Rule in Class III, the 10th February and the 10th April:

Provided that—

(1) in districts, or parts of districts where the above dates may be found to be unsuitable, the Collectors may, with the sanction of the Commissioner to whom they are respectively subordinate, fix such other dates as they may deem expedient according to the circumstances of the season and of the villages comprised in them and the character of the crops generally sown:

(2) when the total amount of assessment is Rs. 4 or under, it shall, if the Collector shall so order, be payable in a lump sum at the date of the first instalment;

(3) if the person from whom the year's revenue is due so wishes, he may in any case pay the whole amount at once instead of by instalments.

Method of classifications under clause (*b*) of the last Rule.

85. For the purposes of clause (*b*) of the last preceding Rule the Collectors of the districts to which that clause applies shall, with the sanction of the Commissioner to whom they are respectively subordinate, classify the villages in the said districts into three classes:

Class I shall include *kharíf* villages in ghát districts and elsewhere where it is necessary that the revenue be secured specially early.

Class II shall include *kharíf* villages in Gujarát and elsewhere where no such special provision is necessary.

Class III shall include *rabi* villages generally.

Instalments of land revenue to which the last three Rules are inapplicable.

86. Land revenue, to which the provisions of the last three Rules are inapplicable, shall ordinarily be paid in one instalment on such date as the Collector shall think fit in each case to prescribe; but in special cases the Collector may, in his discretion, allow the payment to be made in two or more instalments on dates which shall be fixed by him.

Form of notice of demand.

87. The notice of demand to be issued under section 152 of the Land Revenue Code shall be in the form of Appendix H.

Village officers to be held responsible for avoiding frequent issues of such notices.

The village officers shall be held responsible by the Collector for warning landholders verbally from time to time of the dates on which their instalments are due and for using their personal influence

in securing prompt payment without resort to notices of demand or other compulsory process, and exemplary punishment should be awarded to any village officer who is remiss in the performance of this duty.

88. The village officers shall report to the Mámlatdárs or Mahálkaris to whom they are respectively subordinate the names of the landholders who, they have reason to believe, will not punctually pay their instalments, in order that the precautionary measures authorized by sections 140 to 145 of the Land Revenue Code may, when necessary, be adopted in due time.*

Village officers to report names of landholders against whom precautionary measures will be necessary.

XVI.—ADMINISTRATION OF SURVEY SETTLEMENTS.

[Section 214 (*g*).]

(1) *Notification of Survey Settlement.*†

89. When a survey settlement shall have received the sanction of Government under section 102 of the Land Revenue Code, a notification shall be published in the district or portion of a district to which the settlement extends, in the form of Appendix J., and the period for which the assessments have been fixed shall be notified in the *Bombay Government Gazette.*

Notifications of settlement and of period of guarantee how to be made.

When the settlement is introduced into a portion of a táluka already partially settled, the guarantee will be restricted to the unexpired portion of the period for which the assessments in the first settled portion of the táluka were fixed.

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* Distraints should be made by táluka kárkúns, kulkarnis, talátis and patels, provided that they should be executed only by persons able to read and write. In special cases the Collectors and their Assistants may direct the warrant to any person considered competent to execute it. (G. R. 7858 of 23rd December 1881.)

† (*a*) The announcement and introduction of rates are identical, for the assessment is introduced by being announced. The revised assessment comes into force in the sense that it is levied in and from the year after its introduction, and as the intention is that rates once fixed should be collected for thirty years, His Excellency in Council considers that the guarantee for thirty years should run from the year in which the rates are first levied as the first year of the thirty. The second clause of section 104 applies to the year after that in which the rates are introduced, and although application is often made to extend the period for relinquishment by postponing the date from March 31st to June 30th, and this has been sanctioned without remark, it is not clear that this application is not made in some confusion between the year of introduction and the year following. The object of section 104 clearly is that in the year of introduction no enhancement shall be levied and in the year following also an occupant may escape the enhancement by relinquishing his land, but not otherwise. It is not enacted in section 104 that if the new assessment is *less* than the old, the difference between the new and old assessment will be remitted in the year of introduction, and if the assessment is introduced after the old assessment of the year of introduction has been collected, there is nothing further to be done. (G. R. No. 4559, 6th June 1885.)

(*b*) Memorandum from the Commissioner, S. D., No. 480, A., dated 4th March 1887 :—

"2. It appears that it would be clearly illegal to levy the old rates or to refuse to grant refunds in the year of the introduction of the revised rates.

90 In isolated villages to which a survey settlement was extended before the 9th March 1858, the settlements shall be understood to have been fixed for a period of thirty years, unless there is specific evidence that a guarantee for a shorter period was given at the time.

Period of guarantee, in villages settled before 9th March 1858.

"3. Section 103 of the Land Revenue Code (last paragraph) enacts 'that when the assessments are announced in the manner provided in the first clause, &c., &c., the survey settlement *shall* be held to have been introduced'; thus the year in the course of which a survey settlement is introduced is the year in which the new rates are announced irrespective of the year from which the guarantee runs. The amount which an occupant is liable to pay to Government as the land revenue demand on his land is the survey assessment on his land for the time being; when a survey settlement is *introduced* in a place in a particular year, the Government land revenue demand for that year in that place is the assessment announced at the settlement.

"4. If the new assessment is the revenue for the year, the liability of an occupant is restricted to that amount only, and undersigned fails to see how anything more than the revenue for the year can be collected from an occupant.

"5. The first clause of section 104 was enacted for the purpose of giving additional concessions to occupants and was certainly not intended to restrict their rights."

RESOLUTION.—It appears to His Excellency the Governor in Council that the interpretation placed by the Commissioner, S. D., on section 103 is, when considered by the light of the discussions in the Legislative Council when Act I of 1875 revising Act I of 1865 was under consideration, incorrect. The Code contemplates (1) the year of introduction, (2) the year of levy. Section 103 lays down that when assessments have been announced in the manner provided, the survey settlement shall be held to have been introduced. Section 104 provides that the revised assessment shall be *levied* from the next following year. It is therefore clear that the new rates do not have effect in the year of introduction.

2. This view is supported by the speech of the Honourable Colonel Anderson in the discussion referred to above. He states as follows:—"If a settlement was introduced on the 25th August 1874, the new rates of assessment *would take no effect* in the year then current, and in the ensuing year 1875-76 the new rates would not be levied from any occupant who resigned his land before 31st March 1876." If then the new rates have no effect in the year of introduction, the old rates would have to be levied, and the question of remission does not arise. At a later stage in the discussion the particular question now brought forward was considered, it being proposed that the clause in the Bill might be altered so as to bring it into accord with the then custom; that where the new assessment was less than the old one the new only should be levied. This suggestion was however overruled, and looking to the manifest intention of the Legislature as indicated by the discussion above referred to, His Excellency the Governor in Council cannot construe section 104 of the Land Revenue Code as authorizing remissions in such cases as those now brought forward.

3. The Commissioner considers that, as Government have, in paragraph 5 of Government Resolution No. 10088, dated 16th December 1885, approved "of the practice of showing in the year in which a settlement is introduced, the new (be it more or less than the old) assessment as the revenue for the year, the liability of an occupant is restricted to that amount only." This however is merely a matter of accounts. The difference between the old and the new assessments, where the latter exceed the former, is shown in the accounts of the year of introduction as "remissions"; where the new assessments are less than the old there has hitherto been a difficulty in assigning a heading in the táluka accounts to which the difference may be credited. But in the revised Manual of Accounts shortly to be introduced these differences will be shown as "Occasional items of fixed revenue." It is simply for convenience sake; because the assessments have been announced and the exact amount to be paid by each holder made known, that the new assessments are shown in the year of introduction as the revenue. (G. R. No. 2836, 7th May 1887).

(2) *Trees.*

General reservations.

91 The extent to which the right of Government to trees is generally conceded under paragraph 2 of section 40 of the Land Revenue Code will be specified in the notification issued under Rule 89. The said general concession will ordinarily extend to all trees, except the following (namely) :—

(1) all road-side trees planted by or under the orders of Government;*

(2) teak, blackwood, and sandalwood;

(3) trees, the produce of which has hitherto been disposed of by Government.

Special reservations.

Trees in groves, trees round temples or places of encampment declared to be such by the Collector, and trees other than teak, blackwood or sandalwood which for any reason are of special value or utility will be specially reserved at the settlement and entries to that effect made in the settlement records.

The right to trees of any of the above classes which have already been specially assigned to the occupant or purchased by him, or to trees standing in public places, will, of course, not be affected by this Rule or by the notification issued under Rule 89.†

Government may reserve trees not specified in the last Rule.

92. Notwithstanding anything contained in the last preceding Rule, Government will specially reserve their rights to all trees, or to

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* The propriety of laying down a general law concerning road-side trees planted by landholders in their own land was much discussed by the Select Committee on the Revenue Code Bill. That Bill, as introduced, contained a specific provision on the subject (section 107, clause *c*), but it was much opposed and it has been omitted from section 42 of the Bill as read a third time and passed on the 15th April 1879.

The only way to prevent such road-side trees being cut down is to apply the provisions of Act X of 1870 for the acquisition for public purposes either of the trees, or of both the trees and the land on which they stand. (G. R. 3495 of 3rd July 1879.)

†1. If trees on the banks of rivers and nálas grow in land included in an occupied survey number, they belong to the occupant. If they grow in the dry beds of streams which are not included within the boundaries of such a number, they are to be treated as Government property unless and until the occupant can establish his claim to them.

In cases where the boundaries of a field are not laid down on the banks of a stream, the area of the field as recorded in the survey registers should be taken as the guide in determining how far the right of the occupant extends. The occupant should be allowed the benefit of the trees on the area recorded, all beyond it being held to be the property of Government, subject to the provisions of the Land Revenue Code regarding alluvion. (G. R. 649 of 30th January 1882.)

2. *See* also Additional Orders, Part IV., Forests, of this compilation.

With regard to warkas lands in the Konkan, *vide* Resolutions se Rules, *infra* pp. 79-80.

What trees should be disposed of along with an occupancy.

96. Whenever the occupancy of survey number is disposed of at any time after the first introduction of a survey settlement, trees of the kind specified in clause (3) of Rule 91 shall be excluded from reservation, and shall be disposed of along with the occupancy under the provision of paragraph 2 of section 62 of the Land Revenue Code.

The land and the trees thereupon should vest in the same person.

97. Whenever the right to unreserved trees in any survey number is at the disposal of Government simultaneously with the occupancy of such number, all such trees shall invariably be disposed of to the same person who acquires the occupancy and not to any other person.

No. [illegible] B.G.G., Pt. I., [illegible].)

When once trees have been cut or disposed of, Government to have no right to after-growth.

98. When the right of Government to any trees in a survey number has been once disposed of to the occupant, or when reserved trees have been once cut and removed either—

(1) at the grant of the occupancy, or

(2) after such grant, or

(3) in the Province of Sind at any time before such grant or

(4) elsewhere than in the Province of Sind, within five years before such grant,

Government will have no further claim to trees of the same descriptions which may afterwards grow in the number, or which may spring up from the old roots or stumps during the occupancy of the said occupant.

No. [illegible] B.G.G., 1883, Pt. I., p. 372.)

(Notn. No. 385 B.G.G., 1884, Pt. I., p. 111.)

(Notn. No. 6195, B.G.G., 1884, Pt. I., p. 575.)

Savings of reserved trees in *varkas* and *beta* lands in certain districts from the operations of Rules 93 to 98.

98A. Nothing in the foregoing Rules No. 93 to 98, both inclusive, shall be deemed to apply to *varkas* lands in the districts of Thána, Kolába and Ratnágiri, and *beta* lands in the district of Kánara, or to any unalienated land in the Dindori Táluka of the Násik District, or in any of the villages noted in the margin* in the Khed Táluka of the Poona District, or to any land on the banks of streams and nálas in the Godhra Táluka of the Panch Mahál District, or to any river-side jambhul trees growing in occupied lands on the banks of the rivers† noted in the margin in the Párner, Ráhuri, Sangamner and Akola Tálukas of the Ahmednagar District.

* 1. Kuhinde Budruk.
2. Talavde.
3. Avdari.
4. Kude Budruk.
5. Washere.
6. Deoshi.
7. Saignon.
8. Vehtale.
9. Kahu.
10. Kadadhe.
11. Saburdi.
12. Koyali tarf Wade.
13. Darakvadi.

† Mula. Mhais. Pravara Mhalungi.

In the said lands the trees on which the rights of Government are reserved shall be available for cuttings to be made from time to time by or under the orders of the Forest Department, in consultation with the Collector.

of any such tree, or of the timber thereof
no right to the after-growth from the root
the tree so cut. The reservation of the
vernment over the trees will extend to
r-growth also.

ding fur-
of teak-
tálukas
ation of

nd pending the issue of further orders which will be issued by Government when the demarcation of forests in the Háveli, Purandhar and Junnar Tálukas and the Ambegaon Petha has been (Notn. No. 4774, *B. G. G.*, 1884, Pt. I., p. 441.)

othing in the said Rules Nos. 93 to 98,
ve, shall be deemed to apply to teak-trees
any unalienated land in any of the said
etha.

the issue of such orders, teak-trees
any such land shall be available for cut-
made from time to time by or under the
the Forest Department in consultation
llectors, and the sale of any teak-tree
any such land or of the timber thereof, will
ght to the after-growth from the root or
e tree so cut, but the reservation of the
overnment over the teak-trees will extend
r-growth also.

Entry of Co-occupants' Names.

s' names
y be re-

written application being made for this purpose to the Collector or, whilst survey operations are proceeding, to a survey officer, the names of the co-occupants
tered occupant of any survery number
re in fractional parts of a rupee of each
ipant in the occupancy may be entered in
along with the name and share of the
occupant of the number: Provided that
ry shall—

the liability of the occupants to Govern-
or amongst themselves, for the land
e of the number, or

emed to constitute the share to which
tes a recognized share of the survey
r. (Notn. No. 5546, *B. G. G.*, 1885, Pt. I., p. 868.)

spection, Maintenance, and Repair of Boundary-marks.

oundary-
furnished
Depart-
Collector.

the introduction of a survey settlement into a district the Superintendent of Survey shall furnish the Collector with a map and statements showing the posi-
nd description of the boundary-marks
prescribed by or under the orders of the
partment, with a view to his taking
or their maintenance and repair under
of the Land Revenue Code.

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101.* The digging of earth close around an earthen boundary-mark for the purpose of repairing it is prohibited. A space of two cubits in breadth all round each such mark is to be left untouched, so as to prevent injury to the mark from water lodging in the cavities from which earth is taken for the repairs.

Digging near an earthen boundary-mark prohibited.

102. Village officers shall examine all the boundary-marks in their respective villages once a year in November or December, and the village accountant shall record in village form No. 3 (Hope's Forms) the condition in which the boundary-marks are found.

Boundary-marks to be usually inspected by village officers.

Details of all marks found to be out of repair shall be entered in village form No. 4 (Hope's Forms) by the village accountant, and after the lapse of a sufficient time to allow of the repairs to the marks being completed, a second inspection shall be made of every field entered in this register.

103. Prior to the second inspection, the Collector shall issue a notification under section 122 of the Land Revenue Code requiring landholders to repair their boundary-marks within a period of ten days. The provisions of paragraph two of the said section shall be rigidly enforced in the case of any repairs remaining unexecuted at the time of the second inspection.

Issue of notification by Collector under section 122.

104. A further test-inspection of boundary-marks shall be made annually in each village by a Mámlatdár's kárkún. The inspection shall be made in the presence of the village officers and of such of the landholders as may attend. The results of these inspections shall be recorded in the village form No. 3, in the column provided for the purpose, and in column 15 of village form No. 4 (Hope's Forms).

Test-inspection by Mámlatdár's kárkún.

For the first three years after the first introduction of a survey settlement this test-inspection shall extend to all the boundary-marks of each village. After the first three years the following Rules shall be observed :—

(1) For the purpose of táluka inspection of boundary-marks, the number of fields in each village shall be divided into four equal sections, and the fields comprised in one section shall be inspected by the General Duty Kárkún in each successive year. Thus the whole village will be completely supervised in a period of four years.

(2) The division of the boundary-marks of a village into sections as directed in the preceding Rule shall be made once for all by the Mámlatdár personally with the sanction of the Assistant Collector, who should be supplied with the divi-

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Vide note to clause 3 (*a*) of Rule 111 *infra*, p. 51.

sion lists to enable him to take the necessary tests of the work performed by the Táluka Officers.

(3) Each General Duty Kárkún shall be duly supplied with lists specifying the fields of each village in his charge which he is required to inspect in a particular year.

(4) The inspections by General Duty Kárkúns must be careful and thorough, and the results of their inspections should be noted in village form No. 3 (Hope's Form) against each field as indicated in the form.

(5) The General Duty Kárkún should, when the required inspection in a village is over, sign a certificate at foot of village form No. 3 (Hope's Forms) to the following effect:—

"I hereby certify I have personally examined the boundary-marks of the fields noted by me as examined against each field."

General abstract of Inspection Registers.

105. When the necessary repairs have all been completed, the Mámlatdár or Mahálkari shall prepare and forward to the Collector, or to the Assistant or Deputy Collector in charge of the táluka, by a date to be specially fixed by the Collector of each district, a general abstract of the Inspection Registers.

Examination of boundary-marks by superior officers.

106. Mámlatdárs and Mahálkaris and Assistant and Deputy Collectors in charge of tálukas will personally examine the boundary-marks of some of the numbers of several villages in every táluka as soon as possible after the completion of the second inspection required by Rule 102. In the case of tálukas which are in the immediate charge of the Collector, that officer shall mark off several numbers in the village registers for examination by the Daftardár or other high officer of his establishment.

The results of inspections made under this Rule shall be recorded in the same way as in the case of inspections made under Rule 104.

Duty of Commissioners.

107. The Commissioners shall during their tours take measures to prevent the inspection and examination required by the foregoing Rules becoming a mere form.

XVII.—APPEALS. [Section 214 (*h*).]

Form and contents.

108. Every appeal shall be made in the form of a petition addressed to the authority to whom an appeal lies, and shall be drawn up in concise, intelligible and respectful language, and bear the signature or mark of the appellant or of his duly authorized agent.

The petition should give the following particulars:—

the name, father's name, occupation and place of residence or address of the appellant;
the name and address of the writer of the petition; and, if possible, the date of the order or decision appealed against and the name and designation of the officer who passed it.

The petition should also contain a brief and unexaggerated statement of the facts on which the appellant relies in support of his appeal; and the grounds of the appellant's objection to the order or decision appealed against.

Presentation.

109. Appeals may either be presented to the authority to whom an appeal lies in person, or be forwarded to him by post.

When an appeal is sent by post the postage on the cover containing it must invariably be fully prepaid.

Rejection of appeals without inquiry into their merits.

110. Inattention in any material respect to the requirements of either of the last two preceding Rules will render an appeal liable to be rejected without inquiry into its merits.

XVIII.—PENALTIES. [Section 215.]

Breaches of the Rules how punishable.

111. Breaches of the general Rules hereunder mentioned shall be punishable on conviction before a Magistrate* as follows:—

Clause 1.—(*a*) Whoever without due authority shall take, or attempt to take, any produce of any tree belonging to Government;

(*b*) whoever without due authority shall cut down or remove, or attempt to cut down or remove, any jungle or trees belonging to Government or the right to which has not been conceded by Government;

(*c*) whoever without due authority shall remove, or attempt to remove, the grass or any other produce of land belonging to Government;

(*d*) whoever without due authority shall dig or remove, or attempt to dig or remove, any earth, stone, kankar, sand or muram, or any other material from land belonging to Government;

shall be punished with imprisonment of either description which may extend to one month, or with fine† which may extend to five hundred rupees.

* Memo. by L. R.:—"The definition of the word 'Magistrate' given in Section 1 of the Bombay General Clauses Act, 1866, applies only to Acts of the Governor of Bombay in Council, not to rules made under such Acts.

"2. As no special definition is attached to the word as it is used in No. 111 of the Land Revenue Code Rules, it must be deemed to have, in that place, its ordinary meaning. 'A Magistrate' therefore means 'any Magistrate.'" (G. R. No. 3103, 20th April 1883, R. D.)

† Such fines should be recovered under section 181 B. L. R. C., that being a special or local law which is not affected by anything contained in the Code of Criminal Procedure, section 1, para. 2. (G. R. 4697, 9th June 1885, R. D.)

DIVISIONAL FOREST OFFICE
Inwd. Regr. No.
Date
PALANPUR

Clause 2.—(*a*) Whoever shall unlawfully cultivate land of which the cultivation has been prohibited under Rule 48;

(*b*) whoever shall unlawfully destroy or materially injure for cultivation land held for purposes of agriculture only;

(*c*) whoever shall appropriate for purposes of agriculture compounds to bungalows or patches of open ground surrounding houses after such cultivation has been prohibited by the Collector on sanitary grounds;

(*d*) whoever shall, except for the purpose of laying the foundations of buildings, sinking of wells, or making grain-pits, within the site of any village, town or city, excavate, without the previous permission in writing of the Collector, or, when such permission has been granted, shall excavate contrary to any terms prescribed by the Collector;*

(*e*) whoever shall suffer his land to be or to become overgrown with prickly-pear or rank grass so as to be dangerous to the health or safety of the neighbourhood;†

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* Excavating, without permission, a foundation on the site of a village and building a wall upon it is not an offence under No. 111, clause 2 (*d*).

I. vs. *Sheshabhat bin Balkrishnabhat,* per Kemball and Birdwood, JJ. (H. C. Crim. Rgs., 8th May 1884.)

† (Memo. by Acting L. R.) "The question is whether a Magistrate has in the case of an alienated village, power to take action under clause 2 (*e*) of Rule 111 of the Rules under section 214 of the Land Revenue Code.

In my opinion the answer must be in the negative.

I think clause 2 (*e*) of Rule 111 must be held to refer to Rule 52 which applies only to unalienated land.

(1.) The rules must be read all together; and it is obvious that if Rule 111, clause 2 (*e*), is meant to be a rule for the punishment of any one who suffers his land—alienated or unalienated—to become overgrown with prickly-pear, &c., Rule 52 is superfluous. It seems improbable that this should have been intended, and more likely that Rule 111, clause 2 (*e*), should have been meant to refer back to Rule 52 with the wording of which it very closely corresponds.

(2.) Section 214 of the Land Revenue Code does not seem to authorize a rule to provide for the removal of prickly-pear, &c., from alienated lands.

No such rule could be made under section 214 (*c*) which deals simply with the appropriation of unalienated land (*vide* the last clause of section 48); nor could it, I think, be framed under clause (*i*). There is no other clause at all applicable.

Clause (*i*) runs as follows:—

The Governor in Council may from time to time make and from time to time vary or rescind rules or orders not inconsistent with this Act:

* * * * * * *

(*i*) Generally for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

This clause no doubt is very vague and if construed quite literally would permit the prohibition of any act that was considered objectionable, however little connected it might be with Land Revenue administration. But this interpretation seems inadmissible. The rules to be framed under section 214 are intended to be in furtherance of the objects of the Act and in the preamble these are stated to be the amendment and consoli-

shall be punished with fine which may extend to five hundred rupees.

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dation of 'the law relating to Revenue officers, and to the assessment and recovery of Land Revenue, and to other matters connected with the Land Revenue Administration.' Rules on other subjects appear to be *ultra vires* unless expressly authorized by some section of the Code.

It may perhaps be urged that Rule 52 departs somewhat from the purposes of the Act as thus stated, but incidentally it may be considered to protect the revenue by preventing injury to land liable to assessment; and at any rate it is within the provisions of the last clause of section 48.

But a similar rule when extended to alienated land becomes a mere sanitary regulation. It is based on no express section and does not appear any more authorized by the Code than would be a rule to regulate vaccination or to prevent the sale of unwholesome food." (G. R. No. 3639 dated 14th June 1887, R. D.)

(Memo. of Acting L. R.) "Government memorandum No. 5451 of 30th July 1889 calls for my opinion on the question, whether an order for the removal of prickly pear from 'partly deserted village sites' can be legally passed under section 34 of Bombay Act VII of 1867.

"2. I do not see any reason why under that section an order should not issue for the removal of prickly pear or other vegetation, &c., from an abandoned site in a village, unless the village itself has been wholly deserted. The section contemplates the responsibility of the *inhabitants* of the village for the removal from all common or waste land. The two words are, I think, used as *ejusdem generis* (*vide* Maine's Village Communities, p. 120. et seq.) to denote that part of the village domain which is unappropriated to the use of individuals in severalty, but in which a communal interest is recognised. 'Common' seems to connote *use* by the community, while 'waste' in its etymological and popular sense means that which is spoilt (French *gâter* and Latin *vastare*), unfit for use, unused or deserted.

"3. An abandoned building site seems clearly to fall under the latter description.

"Section 34 apparently was intended to impose on the village collectively, in respect of all such land, a joint responsibility for sanitation corresponding to the several responsibilities imposed by section 33 on individuals (*vide* B. H. Ct. Crim. Rgs. of 11th June 1874).

"4. The inhabitants of a village may, therefore, I think, be required to remove, or pay for the removal of, prickly pear, &c., from such a site within their village. If, however, the village is wholly deserted, the inhabitants of *another* village could not be made responsible for such deserted village.

"5. Reference is made in the correspondence to Rule 111, clause 2 (*e*) of the rules under the Bombay Land Revenue Code. I fear the High Court would consider that Rule *ultra vires*. It is a penal clause attached to Rule 52, which purports to be under sections 48 and 214 (*c*) and (*i*) of the Bombay Land Revenue Code.

"Section 48 prescribes the penalties for appropriation of land to purposes alien to agriculture or prohibited.

"If, notwithstanding such express provision, it was legal to prescribe by rules an additional penalty for such appropriation, the further question would arise whether Rule 52, which deals with mere passive neglect and not with appropriation to any purpose whatever, comes within section 48 of the Bombay Land Revenue Code.

"6. For this reason, I think that it would be safer to adopt, in respect of occupied lands, the course suggested in the correspondence, and to proceed under section 33 of Bombay VII of 1867 which was expressly intended to protect the public health, rather than under Rule 52 of the Bombay Land Revenue Code which deals rather with the interests of the public revenue." (G. R., R. D., No. 6540, dated 4th September 1889.)

Clause 3.—(*a*) Whoever shall dig earth within a space of two cubits of any earthen boundary;*

(*b*) whoever shall use land near villages which has been assigned for any of the purposes mentioned in Rule 43 for any other purpose, or shall use for any of such purposes, land near villages which has not been so assigned;

shall be punished with a fine which may extend to ten rupees.

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* NOTE ON CLAUSE 3 (*a*).—"Rule 101 is not one that could legally be framed under section 214 (*g*). It is not a rule for the administration of a survey settlement:" *Ruling by the High Court in I.* vs. *Irapa bin Shidapa*—(H. C. Cr. Rgs., 6th September 1888.)

(Memo. by the Acting L. R.) "The High Court (Mr. Justice Birdwood and Mr. Justice Parsons) have held that Rule 101 of the Land Revenue Rules prohibiting digging within two cubits of a boundary mark, and by consequence Rule 111, Clause 3 (*a*), attaching a penalty to the breach of Rule 101 are *ultra vires*, and are not justified by section 214 of the Land Revenue Code, clause (*g*) which authorises rules 'for the administration of a survey settlement.'

2. It has been suggested that such a rule might be made under section 214 (*i*) if not under section (214 (*g*) of the Land Revenue Code.

Maxwell on interpretation of Statutes, pages 265 to 267.

3. Statutory powers are always construed very strictly, especially where power is given to impose a penalty.

4. Section 214 (*i*) only empowers the making of rules for the *guidance* of all persons in matters connected with the enforcement of the Act or in cases not expressly provided for therein.

Rules for "guidance" are essentially directory and adjective; they were meant to regulate procedure in enforcement of the Act, and not to operate as new substantive mandates, themselves to be enforced by penalty.

This is the view taken by the High Court. For the note made on the returns before the papers were called for by the High Court, runs as follows:—

> 'Quære whether this rule is not *ultra vires*. Section 215 gives the Local Government power to impose penalties only in the case of general rules passed under section 214. It is not clear how this rule falls under that section. Probably Clause (*i*) is contemplated, but that is somewhat vague, and it seems doubtful whether a rule for the *guidance* of persons could properly have a penalty attached to it.'

5. No new powers or obligations could be created by rules under section 214 (*i*). Such rules could only indicate the manner in which powers and obligations already conferred or imposed by the Land Revenue Code should be carried out. There is no power under the Code to punish unintentional injury to a boundary mark, and the only obligation under the Code except in case of wilful injury is to construct and repair such marks or pay the charges incurred in respect thereof.

6. But it is within the discretion of the Superintendent of Survey to prescribe the size, material and description of boundary marks according to the requirements of soil and climate. Where the soil and climate are of such a nature that the boundary mark unless protected by a space of two cubits left untouched, would be liable to injury from water lodging in the cavities caused by digging round it, it would be perfectly within the powers of a Superintendent of Survey to require all boundary marks injured from such cause to be repaired substantially with stones or in such other durable manner or material as would be costly enough to deter land-holders from thoughtlessly injuring the marks."

7. Resolution.—Government approve of the adoption of the course suggested in paragraph 6. (G. R. No. 2131, dated 19th March 1889, R. D.)

Clause 4.—Whoever, being a village officer,

(*a*) shall take or levy any fee for preparing any document or copy or extract of any document which he is bound by any Rule or Order to prepare without charge;

(*b*) or who shall charge any fee for granting any permission which he is authorized by these Rules to grant but for which no fee can lawfully be charged;

shall be punished with the punishment provided in clause 1 of this Rule.

Clause 5.—Whoever, being a village officer,

(*a*) shall refuse or neglect to prepare any document or copy or extract of any document, or to sign or certify the same, in the manner prescribed by any of the Rules;

(*b*) or shall neglect to make any report or to perform any duty which he is required by any of these Rules to make or to perform;

(*c*) or shall negect to inspect the boundary-marks in his village in the manner and at the time required by these Rules;

shall be punished with the punishment provided in clause 2 of this Rule.

Nothing in this Rule shall prevent any person from being prosecuted under any enactment for any offence punishable under these Rules, or from being liable under any enactment to any other or higher penalty than is provided for such offence by this Rule: Provided that no person shall be punished twice for the same offence.

APPENDIX A. (See Rule 5.)

Form of Annual Statement showing the results of inquiries made as to the sufficiency of the Security furnished by Revenue Officers in the District of for the year ending the of 18 .

Consecutive No.	Names and designations of Officers required to give Security.	Amount of Security given.	Nature of Security given.	Names of Sureties, if any, and dates of their Bonds.	Names of new Sureties, if any, substituted for former ones who have died or withdrawn, or whose fitness is considered doubtful.	Amount of Security, if any, for which each Surety is liable on account of other Officers, whether in the same or in any other Department.	Opinion of Head of Office as to sufficiency of present Security.
1	2	3	4	5	6	7	8

APPENDIX B. (See Rule 11.)

Forms of Sanads for revenue-free grants of land for Religious or Charitable purposes.

FORM NO. I.

To *A.B.*

WHEREAS Government have been pleased to grant to you, *A.B.*, the below-mentioned piece of land situated in the village of in the táluka of the district, for the purpose of * revenue-free (namely)—

All that piece of land bounded on the North by , on the South by , on the East by , and on the West by , and measuring from North to South and from East to West , comprising square in superficial area, and numbered No. in the :

It is hereby declared that the said land shall be continued for ever free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said , on the condition that neither the said land nor any building erected thereupon shall at any time, without the express consent of Government, be diverted either temporarily or permanently to any other than the aforesaid purpose, and that no change or modification shall be made of the object for which the said is founded, and that in the event of any such unauthorised diversion, change, or modification being made, it shall be lawful for Government, on causing six months' previous notice in writing to be given to the said holder or manager, to take either of the two following courses (namely), either—

(1) to require that the said land be vacated and delivered up to Government free of all claims or incumbrances of any person whatsoever, or

(2) to impose thenceforward such annual rent for the occupation of the said land until the same is vacated and delivered over to Government as to Government shall seem fit, which said rent shall be recoverable under the law at the time in force for recovering an arrear of land revenue.

This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products and of full liberty of access for the purpose of working and searching for the same, with all reasonable conveniences.

* The purpose and the extent of the public interest in it should be clearly set forth, as, for instance, "building a dharmshála for the free and unrestricted use of all classes of the community."

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor in Council of Bombay, by the Collector of , this day of 18 .

(Signed)

Collector.

Seal of the Collector.

FORM NO. II.

To

A. B.

WHEREAS, in consideration of your having built (or undertaken to build, *as the case may be,*) a temple, with a dharmshála annexed thereto, for the use of the Hindu community (*or otherwise as the case may be*) on the piece of land hereinafter mentioned, which is your property (or which has been granted to you by Government for this purpose, *as the case may be,*) Government have been pleased, at your request, to exempt the said piece of land from liability to rent or land revenue.

It is hereby declared that so long as the said piece of land continues to be devoted to the purpose aforesaid, it shall be continued free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said temple and its appurtenances (*or otherwise as the case may be*).

The piece of land herein referred to is situated in the village of in the táluka of district, and is bounded on the North by , on the South by , on the East by , and on the West by , and comprises about square in superficial area, be the same more or less, and is numbered No. in the .

*This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products, and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences.

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor in Council of Bombay, by the Collector of this day of 18 .

(Signed)

Collector.

Seal of the Collector.

APPENDIX C. (See Rule 27).

Form of Agreement for exchange to be executed by villagers removing to a new village-site.

†AGREEMENT executed the day of 18 by *A. B.*, resident of in the Táluka of the District.

WHEREAS Government have been pleased to sanction a change being made in the position of the site of the village of in the Registration Sub-District of of the District, and in pursuance of such sanction the following plot of ground has been allotted to me in the new site in exchange for the ground held by me in the old site, namely, the piece of land bounded as follows, that is to say, on the North by , on the South by , on the East by , on the West by , measuring in length from North to South, and in width from East to West, and comprising about square in superficial area and numbered No. in the :

I do hereby agree, in consideration of the allotment to me of the new piece of land aforesaid, as follows (namely) :—

(1). That all my right, title and interest in any land whatsoever, situate within the old site of the said village, shall be deemed to be, and is hereby, surrendered to Government, together with the trees standing thereon, and all rights over or other benefits arising out of, or enjoyed by me, in respect of the said land;

Notn. No.676, *B. G.G.*, 1886, Pt. I., p. 81.

(2). That I shall hold the piece of land aforesaid in the new site from the date of this agreement‡ on the same terms and with the same rights and subject to the same

*This clause is to be inserted only when the land is being granted under the sanad.

†The proper stamp-duty for this agreement is four annas. *See* Act I of 1879, Schedule I, Art. 5 [*b*].

‡Government does not by this form of agreement abandon any right of levying land revenue which it may possess under the B. L. R. C. or otherwise. (G. R. No. 9021, dated 6th November 1885, R. D).

liabilities as would apply to my tenure of the ground held by me in the old site, if I continued to be the holder thereof.

In witness whereof I have hereto set my hand the day and year aforesaid.

Written by

(Signed) *A. B.*

Signed and delivered by _____ in our presence

_____

_____

APPENDIX **D.** (See Rules 32 and 75).

Form of agreement to be passed by persons intending to become registered occupants.

*AGREEMENT.

To the Mámlatdár (or Mahálkari) of

I, *A. B.*, inhabitant of in the Táluka of the District, hereby accept, on behalf of myself and of my co-occupants, present and future, the occupancy of the land comprised in Survey No. (*or* of the building-site hereinbelow described, *or otherwise as the case may be,*) in the village of in the Táluka of the District, and I pray that my name be entered in the Government records as the registered occupant of the said land.

The said occupancy has been granted to me subject to the provisions of the Bombay Land Revenue Code, 1879, and of the rules in force thereunder, in perpetuity (*or* for the period of, *as the case may be,*) from the day of 18 ; †and I undertake to pay the land revenue from time to time lawfully due in respect of the said occupancy (*or* I undertake, whenever Government shall see fit to discontinue the exemption of the said land from payment of land revenue, to pay such revenue as may be lawfully imposed, under the orders of Government, thereupon, *or otherwise as the case may be*).

Dated the day of 18 at

Written by

(Signed) *A. B.*

We declare that *A. B.*, who has signed this agreement, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *C. D.*

E. F.

‡ We declare that to the best of our knowledge and from the best information we have been able, after careful inquiry, to obtain, the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed) *G. H.*, Patel,

J. J., Village Accountant.

APPENDIX **E.** (See Rule 34.)

Form of written permission to occupy land to be given by a Mámlatdár or Mahálkari under Section 60.

Permission is hereby given to *A. B.*, inhabitant of in the Táluka of the District to occupy Survey No. (*or* the building-site hereinbelow described, *or otherwise as the case may be,*) in the village of in the Táluka of the District.

Dated the day of 18 at

Seal.

(Signed)

(Mámlatdár (or Mahálkari).

* *Vide* note on Rule No. 75.

† When an occupancy is sold for a fixed period free of land revenue, the agreement should end here, and the second endorsement may be omitted.

‡ This endorsement is to be required only when the agreement is given under Rule 32.

APPENDIX F. (See Rule 57.)

Form of Register of Alienations.

Register of Alienated Villages and Lands in the District kept under Section 53 of the Bombay Land Revenue Code (Bombay Act V of 1879).

Serial Number.	Number of Village.	Number of the present Alienee.	(1) Class of Alienation.	(2) Particulars of the Sanad.						Duration of tenure, i.e., whether continuable permanently or hereditarily for more lives than one, or for life only, or for what period.	Particulars of the villages or lands alienated.				(5) Land Revenue payable to Government.				Land Revenue alienated.	Remarks.
				Number.	Date, month and year.	Name and Office of the Officer signing it.	Name of the Holder.	Names of the Táluka and District in which it is entered.	(3) Number of Form of the Sanad annexed to the Register.		Entire village.	If part only of the village, the Survey Number.	Area.	Survey Assessment.	(4) Amount of old *judi* or *seldmi*.	Additional Quit-rent, if any, payable under the Sanad. Rate.	Additional Quit-rent, if any, payable under the Sanad. Amount.	Total.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
								Táluka.												
								Táluka.												

NOTES:—

(1) This column should show whether the sanad is for a political or other saranjám, or a personal inám, or a devasthán, or a watan inám or a district officer's watan, or a village servant's watan, and in the latter case whether the watan is (*a*) useful to the village community, or (*b*) useful to Government. If the alienation does not come under any of these classes, it should be appropriately described.

(2) In those cases in which no sanad has been granted, the number and date of the decision confirming or continuing the alienation should be written across columns 5—10.

(3) To avoid the necessity of copying out a sanad *in extenso* in each entry, a sample form of every kind of sanad registered should be annexed under the Collector's signature to the Register, and numbered, and the number of the form should be entered in column 10 of each entry.

(4) If the amount of *judi* actually paid has been less than the maximum amount fixed by the Inám Commission or otherwise, the former amount should be entered in column 16, and the latter, with an explanatory note, in column 21.

(5) When columns 16—18 are inapplicable, the amount of land revenue payable should be shown in column 19 only.

APPENDIX G. (See Rule 74.)

Form of Notice of Relinquishment.*

No. 1. † *Absolute Relinquishment.*

To the Mámlatdár (or Mahálkari) of

I, *A. B.*, inhabitant of in the táluka of the district, the registered occupant of Survey No. the building-site hereinbelow described (*or otherwise as the case may be*), in the village of in the táluka of the district, hereby give notice, under Section 74 of the Bombay Land Revenue Code, 1879, that it is my intention to relinquish absolutely the occupancy of the said Survey No. (*or* building-site, &c.,) at the end of the current year.

Dated this day of 18 at

Written by (Signed) *A. B.*

* No Court-fee is chargeable on an application to relinquish land. Court Fees Act VII of 1870, Section 19 (XI).

† These notices must be given before the 31st March, or such other date as Government prescribe, under Section or each district.

We declare that *A. B.*, who has signed this notice, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *E. F.*
G. H.

No. 2. Relinquishment in favour of some other person.

To the Mámlatdár (or Mahálkari) of

I, *A. B.*, inhabitant of in the táluka of the district, the registered occupant of Survey No. (*or* of the building-site hereinbelow described, *or otherwise as the case may be,*) in the village of in the táluka of the district, hereby give notice, under section 74 of the Bombay Land Revenue Code, 1879, that I have relinquished the occupancy of the said Survey No. (or building-site, &c.,) in favour of *C. D.*, inhabitant of in the táluka of the district; and I request that the necessary mutation of names be made in the records.

Dated this day of 18 , at
Written by (Signed) *A. B.*

We declare that *A. B.*, who has signed this notice, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *E. F.*
G. H.

APPENDIX H. (See Rule 87.)

Notice to a Defaulter.

To *A. B.*, residing at

You are hereby required to take notice that the sum of Rs. a. p. due by you on the as the (* instalment of) land revenue on (Sub-No. of) Survey No. (*or otherwise as the case may be*) in the village of in the táluka of in the district, has not been paid, and that, unless it is paid within ten days from the date of this notice, together with the sum of annas, being the fee chargeable for this notice, compulsory proceedings will be taken according to law for the recovery of the whole of the revenue still due by you for the current year on the said land.

Dated the day of 18 .

(Signed) Mámlatdár (or Mahálkari).

APPENDIX J. (See Rule 89.)

Notification determining the period of Settlement.

The Governor of Bombay in Council having sanctioned the Survey Settlement introduced by the Superintendent of Revenue Survey and Assessment, under the provisions of the Bombay Land Revenue Code, 1879, into the táluka of the district, the following notification is published for the information of the landholders and village officers in the said táluka:—

1. The survey rates as fixed under this settlement will remain in force without increase for a period of years, commencing from † and extending to †

Duration of settlement.

2. But in the case of land which may hereafter be brought under irrigation by the use of water, the right to which vests in Government, or which is supplied from works constructed and maintained by, or at the instance of, Government, or of land which may be supplied with an increased amount of water from works constructed, repaired, or improved at the cost of the State, Government reserves to itself the right of imposing an extra cess or rate, or of increasing any existing rate, for the use of water supplied or increased by such means, whether under the provisions of the Bombay Irrigation Act, 1879, or otherwise.‡

Extra cess for water.

3. In addition to the fixed assessment, a cess not exceeding such rate as may be allowed by law will be levied under the Bombay Local Funds Act, 1869, or other law for the time being in force, for the purpose of providing funds for expenditure on objects of local public utility and improvement.

Local Funds.

4. The Government rights to trees standing in lands which are now occupied, is hereby conceded to the occupants thereof, subject to the general exceptions entered in the margin§ and the special exceptions recorded in the settlement records.

Right to trees.

---

* "First" or "second," as the case may be.

† Here enter the Fasli and A.D.

‡ Should any other special cess, for the maintenance of irrigation works, such as the pát-fála in Khándesh, be levied, it should be here specified.

§ The names of reserved trees are to be specified in the margin.

APPENDIX K.

REVENUE DEPARTMENT.

The following Resolution by the Government of India is published is supersession of the Rules notified in the *Bombay Government Gazette*, dated 21st September 1871, page 1014:—

"No. $\frac{1}{142}$.

Extract from the Proceedings of the Government of India in the Department of Agriculture, Revenue and Commerce, dated Fort William, the 6th February 1872.

[LAND REVENUE AND SETTLEMENTS.]

READ again—

Financial Department Resolution No. 557, dated 25th January 1870.
Home Department Circular Resolution No. 229-39, dated 27th April 1870.
Financial Department Resolution No. 1452, dated 23rd June 1870.
Home Department Circular No. 427-36, dated 4th July 1870.

RESOLUTION.

In the Resolutions quoted above it was ruled that the sanction of the Government of India should be obtained to the alienation of all Government land, whether actually paying revenue or not, except grants of waste land made under the approved rules, and that Government land, whether paying revenue or not, should not be parted with save under the rules applicable to the expenditure of public money. It was also laid down that if the sale of small plots of escheated land for the benefit of local funds has not been duly sanctioned, it must be considered subject to the above restrictions.

2. Several local Governments and Administrations having represented the inconveniences arising from a strict adherence to these orders, the Governor General in Council has been pleased to modify them as follows:—

3. Lands to be disposed of will necessarily divide themselves into two classes:
First—Those which are the property of the State;
Second—Those which, under competent authority, have been constituted the property of a municipality or other local body.

4. Lands of the first class may be disposed of in various ways—
First—By sale at full market value;
Second—By sale on favourable terms—
to a public body or association, or to an individual, for a public purpose;
Third—By gift or grant to—
(*a*) a public body or association, or to an individual, for a public purpose;
(*b*) private individuals in remuneration for public services to be performed;
(*c*) private individuals for their private benefit, without reference to future services.

5. As regards lands falling into the second of the above classes, which have been under a competent authority, constituted the property of a local body, the Government of India will exercise no interference. It will be the duty of local Governments and Administrations to satisfy themselves that the lands in question have been transferred under proper authority, and this having been ascertained, the sanction of the local Government or Administration will be sufficient for the disposal of the lands.

6. As regards lands, the property of the State, such of them as are governed by the rules for the grant of waste lands, will continue to be dealt with under the rules on this subject in force for the time being.

7. As regards lands, the property of the State, other than waste lands, which are sold for full value, no reference to the Government of India need be made where the full value does not exceed Rs. 10,000. Up to this amount the sanction of the local Government or Administration will in all cases be sufficient. The amount realized by the sale of the land should invariably be credited to the general revenues, and the sale should be duly noticed in the proceedings of the local Government or Administration.

8. As regards the sale of lands on favourable terms, for a public purpose, in no case should the recipient pay less than half the full market value of the lands granted; and whenever such full value exceeds the sum of Rs. 1,000, the sanction of the Government of India should be previously obtained. The amount realized by the sale should in all cases be credited to the general revenues, and the sale should be noticed in the proceedings of the local Government or Administration.

9. As regards the gift or grant of lands, the previous sanction of the Government of India should be obtained in cases where the value of the grant exceeds Rs. 3,000, when given as a site for the construction of Government schools hospitals, dispensaries, or other

public works, at the cost of recognized local funds: where it exceeds Rs. 500, when given for any other public purpose, or to a private individual for services to be performed to the State, * or where it exceeds Rs. 100 when the services are to be performed to the community and in *all* cases of grants to individuals for their private benefit irrespective of any services to be performed.

* *N.B.*—This does not refer to cases in which the local Government may have been separately authorised to dispose of lands under special rules sanctioned by the Government of India.

APPENDIX L.

No. 5215.

Extract from the Proceedings of the Government of Bombay in the Revenue Department, dated 29th September 1879.

Read the following letter from the Secretary to the Government of India, Home, Revenue and Agricultural Department, No. 2—11, dated 1st September 1879:—

In continuation of my circular Nos. 40 to 49, dated the 14th August 1871, making certain enquiries in regard to the mineral rights of Government, I am desired to forward, for the information of His Excellency the Governor in Council, a copy of the Proceedings of this Department for August 1872, Nos. 26 to 37, and of the marginally noted correspondence with the Government of Madras and the Solicitor to Government.

From the Government of Madras, No 847, dated the 27th February 1877, and enclosures.
From the Government of Madras, No. 320, dated the 23rd January 1877, and enclosures.
To the Solicitor to Government, No 1481, dated 5th December 1878.
Reply No. 83, dated 30th January 1879, and enclosures.
Despatch to the Secretary of State, No. 7, dated the 1st September 1879.

2. I am to explain that, on consideration of the papers which are recorded in the Proceedings for August 1872, it appeared that no immediate action was necessary, unless Government had been prepared to resort to legislation—a course the desirability of which did not seem to be sufficiently established at that time. No general legislative measure is now in contemplation, nor is it intended to institute in the Bombay Presidency any special enquiry as to the State's rights to minerals, unless, at any time, circumstances should arise which should render such an enquiry indispensable in the interests of those exclusive preminent powers which belong to the State as representing the community at large. Such powers it is all the more necessary carefully to guard when there is reason to believe that they may be valuable. It is therefore thought expedient now to direct attention to the matter, and to request, first, that, subject to any instructions which may be received from the Secretary of State in connection with the reference that has been made to him by the Government of Madras in all future grants and leases of Government waste land for cultivation in the Bombay Presidency, full rights may be reserved to Government in respect of all minerals which may be discovered in or under such land; and, secondly that, in all cases in which minerals may be discovered in any place where there is ground for the belief the Government may be entitled to them, or may have a right to assess them to land revenue, a full enquiry may be made and the result reported. Rights of way and other reasonable facilities for working, getting and carrying away such minerals as may be found should also be reserved on behalf of Government or the assignees of Government in deeds of sale and leases of waste lands.

3. Whenever it is found possible to do so, the right of Government to the minerals should be asserted and reserved in all future settlements; and if in any case this is not possible, then, in such settlements, the reservation should take the form of a right to put a separate assessment on mineral produce. This last direction, however, is of course subject to any special peculiarities which may exist in the local revenue system.

4. It will be understood that, except in so far as the precautions above directed require, it is not intended in any way to anticipate future events. Should any case similar to that of the gold discoveries in the Wynaad arise elsewhere, it can be dealt with, as it occurs, on the analogy of the instructions which Her Majesty's Secretary of State may be pleased to give on the despatch of the 1st current.

RESOLUTION.—The instructions of the Government of India should be communicated to the Commissioners of Divisions and the Commissioner of Survey for information and guidance.

GOVERNMENT OF INDIA.

HOME, REVENUE AND AGRICULTURAL DEPARTMENT.

State rights in Minerals and Mining Leases.

From the Government of India to the Secretary of State for India,—No. 7, dated Simla, the 1st September 1879.

We have now the honour to reply to your Lordship's despatches marginally noted, concerning the rights of the State in minerals, and the terms that should be imposed on gold mining leases on Government lands in the Wynaad districts of Madras. There has been

No. 40, dated 10th May 1877.
No. 69, dated 10th October 1878.

delay in coming to a decision on these points, because we were obliged to take legal advice on some of the questions raised, and because we desired to ascertain the policy recently adopted in Australia regarding mining leases in the gold-fields of that continent.

2. Regarding the State rights in minerals, three distinct questions had first to be considered, namely :—

(1) whether the royal prerogative, as it obtains in England in respect to gold and silver mines, prevails in British India; and whether grantees of waste land are entitled to mines of gold and silver found thereunder, when the deed of grant is silent as to such mines ;

(2) whether, apart from such prerogative, the Crown in India can assert a right to gold, silver, or other minerals on any other ground ;

(3) whether, if both these questions are answered in the negative, the mineral resources of the land can be taken into account in assessing land-revenue.

3. The Madras Government, in their letter No. 320, dated 23rd January 1877, concurred with their Advocate General, and expressed an opinion that the royal prerogative regarding gold and silver mines did not prevail in India. They held that it would be impolitic, even if it were legally possible, to assert any Government right in the mineral resources of lands sold under the Waste-Land Sale Rules, or in lands held by certain ancient proprietors of the Malabar district. The Governor of Madras in Council advised also that the claims of ryots to the mineral wealth of their holdings should not be disturbed; and on this point His Grace in Council differed from the view expressed by the Madras Board of Revenue. The Madras Government pointed out that, if large numbers of gold-workers were to come to the mines, police and other expenses would be thrown on the Government, to meet which a reasonable royalty might properly be imposed. The Governor of Madras in Council also recommended that, until the policy of Government with reference to mineral rights in the soil was settled, all sales of Government land under the Waste-Land Sale Rules should be made subject to the reservation of the State rights in minerals found underneath those lands.

4. We referred the three questions stated in the second paragraph of this letter for the opinion of our Advocate General, of our standing Counsel, and of one of the first lawyers in Calcutta. We submit copies of the opinions of these gentlemen for your Lordship's information. It will be seen that they all three agree that the prerogative of the Crown regarding gold and silver mines does not exist in India outside the presidency towns, and that grantees of waste land are entitled to mines of gold or silver found thereunder when the terms of the grant are silent as to such mines. While there is no doubt that all the prerogatives essential to the maintenance of the executive power, such as the right of making war, peace and treaties, are in force throughout British India, yet, as the right to mines of gold and silver is merely a fiscal prerogative, and is not essential to the maintenance of the executive power, it stands precisely on the same footing as the prerogative rights to whales and sturgeon wrecks, treasure-trove, waifs and estrays—cases in which no one would maintain that the Crown has any right in India apart from express legislation. Such prerogatives, in fact, belong to that part of the English Common Law which has arisen from, and is adapted to, merely local requirements, and is not therefore in force in this country. Moreover, since the Indian Legislature, in the Punjab Land-Revenue Act (XXXII) of 1871), section 29, thought it necessary to declare that in the Punjab mines of metal shall be deemed to be the property of Government, and since, by the Ajmere Land-Revenue Regulation (II. of 1887), section 3, the Government is, with certain exceptions, presumed to be the sole owner of all mines until the contrary is proved, it would be inconsistent to contend that the prerogative right to gold and silver mines exists in India, as, if it did, there would have been no need for these express statutory provisions, or at least these particular metals would have been excluded in framing them. On these grounds, we consider that the opinion of the law officers may be finally accepted, and that whatever be the rights of the Government of India in the matter, no claim on the part of the State can be preferred on the ground of the prevalence in India of this royal prerogative outside the limits of the presidency towns. As to the right of grantees, the decisions in England are to the effect that mines of gold and silver will not pass by a grant from the Crown without express words granting them. We are, however, advised that the principle of such decisions is wholly inapplicable to India. When this principle was established in England, grants from the Crown of its land had the effect of impoverishing the Crown, being made from favour and without consideration moving from the grantee. But in India such grants have, it is believed, usually been made in consideration of a money payment, and have therefore had the effect of enriching the Crown. We are aware that this argument was used unsuccessfully before the Judicial Committee of the Privy Council in the case of *Woolley* vs. *The Atorney General of Victoria*, Law Reports, 2 App., Ca. 163, 165. But the reason why it failed was that the Common Law of England (including all the prerogatives and the consequences thereof) had been introduced into the Colony of Victoria, from which that appeal was presented. No such introduction, it is conceived, can be held to have taken place in this ceded and conquered country. The reason why in England grants from the Crown are construed strictly against the grantee is generally said to be that prerogatives are conferred

on the Crown for public use, and are therefore not to be understood as diminished by any grant beyond what it takes away by necessary and unavoidable construction. But where no such prerogative exists, of course that reason ceases. We therefore consider that grantees of waste lands (whether or not the grants expressly comprise "all products both above and below the surface") are, in the absence of any provision to the contrary, entitled to mines of gold and silver found thereunder.

5. In regard to the second question, whether the State possesses other general or special rights in minerals lying under lands which are private property, our Advocate General differs from the other two learned gentlemen who were consulted. Their opinions referred mainly to Bengal and the permanently-settled districts with the circumstances of which they were conversant. Mr. Paul considers that the State has rights in the minerals found in permanently-settled estates; while Messrs. Bell and Evans think that the State does not possess such rights. We consider that the latter is the opinion most likely to be taken by the Courts. And we are confirmed in this view by the practice of the past twenty years, whereby the Government or any private parties who desired to work coal or iron within the limits of a permanently-settled estate have been obliged to buy, or at any rate have bought, the right of so doing from the Zamindár of the lands underneath which such coal or iron might exist. Regarding the circumstances of other provinces, and the way in which State rights in minerals had been asserted or waived, enquiry was made from Local Governments in the year 1871. The replies to that enquiry are recorded in the Proceedings of the Revenue, Agriculture and Commerce Department for August 1872, Nos. 26 to 37, copies of which are now submitted for your Lordship's perusal. It appears from these papers that in most parts of the country no established law or practice was known upon the subject; and that, as no mines had been opened no occasion had arisen to determine the rights of the State in respect to such property. In the North-Western Provinces, however, it had been ruled that, where the surface land had been declared private property, the ownership extended, in default of some distinct and special reservation, to what was below the surface. In newer provinces, on the other hand, such as the Punjab, there was no settled judicial precedent making mines and metal private property. And accordingly opportunity was taken to declare by legislation (section 2 of Act XXXIII of 1871) that mines of metal in the Punjab and also in Ajmere (section 3 of Regulation II of 1877) should be deemed to be the property of Government. Similarly, in the Central Provinces, at the time when proprietary right in their lands was conferred upon the landholders, the full right of Government to minerals was reserved under the provisions of the Settlement Code. So also in Berar, a notification issued by the Resident in 1868 concerning the settlement then in progress declared that "the prior right to all valuable things below the surface belonged to the State."

6. On the third point, namely, whether minerals belonging to private proprietors can be taken into account in assessing the estates of those proprietors to land-revenue, the Advocate General and the other learned gentlemen consulted are, in the main, agreed that when temporarily-settled estates, come under resettlement, the minerals, just like the other resources of such estates, constitute assets on which land-revenue may fairly be assessed. This practice has been already partially followed in provinces where miscellaneous items are reckoned into the village assets for the purposes of the assessment of land-revenue.

We have already noticed (paragraph 3 of this despatch) the views of the Madras Government and of the Madras Board of Revenue regarding the rights of ryots to all mines and minerals in their holdings. Seeing that different classes of tenure may be grouped under the generic term of 'ryotwári tenure,' we hesitate finally to accept, without further enquiry, the view that all holders of ryotwári lands are entitled to all mines and minerals under the holdings. Probably the *jenmies* of Malabar, whose tenure is ancient, may be so entitled. But we shall ask the Madras Government to consider further the question of the rights of ordinary ryots in the minerals under their holdings.

7. Such being the opinions of the Law officers, and such being the reports or recommendations of the several Local Governments, we would advise your Lordship to answer the three questions summarised above (paragraph 2) thus:—

(1) The Crown has in British India no special prerogative over gold and silver mines outside the presidency towns; and grantees of waste land are entitled to mines of gold or silver found thereunder when the deed of grant is silent as to such mines.

(2) No general rule, applicable to all provinces, can properly be laid down, either that minerals and metals found in proprietary lands belong to Government, or that they do not so belong. Even in different parts of the same province, the law and the fact on this matter may be different. When the question arises in each province, it will have to be answered for that province only, in accordance with the practice of the Government and with judicial (or other) precedent. But in any province where proprietary rights have been a recent creation of the British Government, where their precise nature and extent are still unsettled, and where custom or practice about mines has not had time to grow up, advantage should be taken of favourable opportunity to declare by legislation that mines of metals in such provinces are State property.

(3) Mineral resources of temporarily-settled lands, where the proprietors are held to be the owners of such resources, may be taken into account at any resettlement as assets on which the public demand for land-revenue may be assessed.

Further, we should have no hesitation in proposing legislation, if necessary, to provide for raising from mining communities the expenses of special police, special communications, regulating the water-supply, or other special administrative arrangements which might be necessary for the protection or welfare of such communities. Such legislation would be in accordance with the principle adopted in section 14 of Act V of 1861, where provision is made for enlisting special police for the protection of, and at the cost of, any manufactory or public work.

8. We have considered the proposal of the Madras Government that in future sales of waste lands the State should reserve full rights and property in all metals and minerals which may be found in such lands, and also all reasonable conveniences for working such minerals or metals, either by itself, or through other parties. We agree that it is expedient henceforward to sell or grant on lease waste lands subject to these reservations. We solicit your Lordship's sanction to our modifying the Waste-Land Sale Rules accordingly; and we enclose copy of a circular order we have issued, directing that, until your Lordship's orders are received, sales or leases of waste lands shall be made subject to such reservation of full State rights in mines and minerals, together with all convenient powers for getting the same.

9. Lastly, there remains the practical question, which requires early dicision, namely, on what terms shall mining leases on Government waste lands in the Wynaad, Coorg, or adjacent auriferous tracts be given. We recognise the fact that it is of great importance to India that these gold sources should be worked to the best advantage; we admit that, if gold should be produced in large quantities, the, effect of such production on the exchanges between England and India would be of great value; and we think that the terms as to royalty, area of mining leases, and the mode of working should be as liberal as may be possible without encouraging undue speculation. We learn from Mr. Brough Smyth that the most approved system of mining leases in Australia now is to let the land at a moderate rent (ten shillings) per acre, the lessee being bound to employ per acre, or per running yard of reef, a certain minimum quantity of labour on *bonâ fide* mining operations of an approved kind. If the lessee fails to fulfil this condition, he forfeits his lease; and the terms of the mining lease make the Governor of the Colony the final arbiter, on such evidence as may be laid before him, whether a particular lessee has, or has not, failed to fulfil the condition. In the early days of gold-mining industry in Australia, heavy fees (£ 3 and £ 2 per month) were charged for mining licenses. Subsequently an export duty was levied on gold taken from the colony; but latterly the Colonial Government of Victoria has found that the largest indirect avantages to the Colony are secured by making the mining leases simple and liberal, subject to the one condition that a certain quantity of labour is employed on *bonâ fide* mining operations for each acre leased.

10. Plans for levying a royalty on the ton of quartz raised, or for establishing a local office of assay and levying a royalty on the gold, have been proposed. But we consider that, for the present, while the industry is undeveloped, our object should be to make the terms of mining leases of Government lands as simple and liberal as possible. In order to prevent large areas falling into the hands of speculators, it has been suggested that a certain limit of available capital, or a certain quantity of (stamping or other) machinery, should be required per acre of land leased. But we are advised that these conditions have been tried, and have been found inoperative and unsatisfactory in Australia, and that the simple condition that a certain quantity of labour shall be employed per acre in *bonâ fide* mining has been found to work best. For the present, therefore, we would propose to authorise the Government of Madras to grant gold-mining leases of Government lands, in lots of from one to thirty acres, for a term of ten to twenty years; and at a rent of five rupees an acre, subject to the condition that not less than five labourers are regularly employed per acre on *bonâ fide* mining operations in such manner as the Government may approve. The leases should be liable to forfeiture on failure of this condition, or failure to pay rent, as soon as either failure had continued for a period of six months; and should be renewable, at the lessee's option, on such terms as the then Government may settle, at the expiration of the original term. The Governor of Madras in Council would be declared to be in each case the final arbiter whether the lessee had, or had not, fulfilled the conditions of his lease.

We would propose thus to leave wide discretion to the Local Government with reference to the term of each lease and the area comprised therein. We do not propose to levy any royalty or other tax, for the present, on the industry, because we deem it most important to attract capital to the Wynaad gold-fields. The cost of bringing machinery for quartz-crushing to the spot will be heavy; the pioneers of the undertaking will have to buy their experience in many directions; and it is very undesirable that the first ventures now to be made should be unsuccessful.

11. If your Lordship approves the foregoing sketch of the terms on which gold-mining leases of Government lands might be granted, we shall authorise the Government of Madras to act thereupon, and we shall cause draft leases to be drawn up by our legal advisers.

12. There is apparently ground for believing that some of the best gold reefs that are known in India lie in the estates of the Rája of Nellambor and of other private proprietors. The Alpha Gold Company's works were opened in the Nellambor lands. As yet the Rája has made his own terms with companies intending to carry on gold-mining; and at present we are not prepared to urge the Madras Government to undertake legislation with a view of compelling private landowners to give gold-mining leases on any particular terms, or against their will.

13. We shall be glad to be favoured with early instructions from your Lordship, not only on the subject of the terms on which mining leases should be granted in the Wynaad, but also on the three questions raised in paragraph 2 and answered in paragraph 7 of the present despatch. And we solicit your Lordship's confirmation of our orders directing that, in all future sales or agricultural leases of waste lands in any part of India, mines and minerals found on such lands shall be reserved to the State, together with all convenient powers for working and getting and carrying them away.

From the Secretary of State for India to the Government of India,—No. 35 (Revenue—Minerals) dated India Office, London, the 25th March 1880.

I have considered in Council your letter, with accompaniments,* dealing with the important questions of the general rights of the State to minerals in India, of modifications of the Waste-Land Rules necessary to secure these rights, and of the terms on which applications to mine in Government waste lands in auriferous tracts shall be complied with.

* No. 7 (Home, Revenue and Agricultural Department) of 1st September 1879.

2. You point out that, regarding general State rights in minerals, three distinct questions have to be considered. In the first place, you hold, and I concur in your view, that the royal prerogative, as it obtains in England in respect to gold and silver mines, does not prevail in British India, at least outside the presidency towns. You proceed to infer that grantees of waste lands, whether or not the grants expressly comprise all products above and below the surface, are in the absence of provision to the contrary, entitled to mines of gold and silver found thereunder. If this proposition be limited to grantees of waste lands "in fee simple" under the rules framed in different provinces in accordance with the instructions given by my predecessor, Sir C. Wood, in his despatch No. 14 of 1862, I do not dispute it. But I must point out that the expression "grantees of waste land," used without limitation, might be held to include persons who have received, under ordinary terms of settlement, the proprietary rights in lands formerly waste and unoccupied; and to such grantees this view does not apply.

3. As regards the second question, whether, apart from the prerogative, the Crown in India can assert a right to gold, silver, and other minerals found in proprietary lands, you are disposed to agree with Messrs. Bell and Evans that, in the permanently-settled districts, the State does not possess such right. This was the view arrived at by my predecessor, Sir C. Wood, after consideration of Mr. Millet's reports, dated 26th March 1842. But, without weighing this opinion against that of your learned Advocate General, I am disposed to think that even if the legal right to minerals in permanently-settled estates could be established, it would not be desirable to enforce it. I agree with you that the indirect advantages resulting from making available the mineral resources of India are likely to be more valuable to the State than any direct returns; and I therefore consider that it would not be desirable to enforce the right of the State, supposing that such right can be established to mines in permanently-settled estates. Industries requiring skilled and scientific management and the extensive application of capital have flourished under the permanent settlement: and I apprehend that, speaking generally, the landholders of the Lower Provinces are sufficiently alive to their own interests either themselves to develop the mineral resources their estates may contain, or to afford facilities to others to do so.

4. This, however, does not apply to many other parts of India. I look upon it as pretty certain that the mineral resources of their lands will not be effectually worked by the present proprietors themselves of Madras or Bombay, or by the village communities of Northern India: and I apprehend that other promoters of mining enterprise would be likely to meet with considerable obstacles from intricacies of tenure and the difficulty of dealing with numerous small landholders. I consider, therefore, that care should be taken to reserve all State's right to minerals which still exist. And I am of opinion, especially with reference to the views of the Madras Government mentioned in paragraphs 3 and 6 of your letter, that, in the absence of any distinct judicial precedent or of established law or practice, such rights should be presumed still to exist throughout India. I take it that the notion that payment of an assessment based on the agricultural value of land, and intended to cover the right of cultivation, conveys property in minerals below the surface of the soil is essentially a modern one, and would never have occurred to the Native Governments to which our own succeeded. I approve therefore of the instructions you proposed (paragraph 6 of your letter) to give to the Government of Madras on this subject. With regard to the other provinces,

you state that no general rule, universally applicable, can be laid down, either that minerals found in proprietary lands belong to the State, or that they do not so belong. But, speaking generally, in the North-West Provinces it was ruled, but not, as it appears, by judicial authority, that when the surface is private property, the ownership extends, in default of special reservations, to what is below the surface. The precise degree of authority possessed by this ruling should, however, receive further consideration. In the Central Provinces and Berar the full right of Government to minerals has been reserved at settlement, while in the Punjab and Ajmere, and, it may be added, in the Bombay Presidency,* it has been declared by legislation that mines are the property of Government. You conclude therefore that whenever the question as to the right of the State to minerals found in proprietary lands actually arises, it will have to be answered for that locality in accordance with practice and precedent. But that where the nature and extent of proprietary rights are still unsettled, and where custom and practice regarding mines has been established, opportunity should be taken to declare by legislation that mines are State property. With these views I fully concur.

* Section 69 of the New Land-Revenue Code.

5. With regard to the third question, you consider that where proprietors of lands temporarily settled are held to be the owners of the minerals they may contain, such mineral resources may be taken into account for assessment on resettlement. In this view I concur but request that care may be taken not to confer proprietary rights in minerals by including them among assessable assets where such ownership has not been proved previously to exist.

6. Upon the second point discussed in your letter,—the modification of the Waste-Land Rules suggested by the Government of Madras,—I agree with you that, in future, sales and leases of waste lands for agricultural purposes should be generally made subject to reservation of the full right of the State in mines and minerals, and of right of access and other reasonable conveniences for working them on behalf of Government, or the assignees of Government. I approve the circular you have issued on this subject, and sanction the necessary modification of the Waste-Land Rules.

7. Regarding the last subject discussed in your letter,—the terms on which applications to mine in Government waste land in Wynaad and similar auriferous tracts shall now be granted,—you point out that, if gold should be largely produced in India, the effect on exchanges would be highly beneficial, and that it is consequently of great importance that the gold sources in India should be worked to the best advantage. You consider therefore that the mining terms granted by Government should be as liberal as possible without encouraging undue speculation, and you deem it of importance thus to attract capital to the Wynaad gold fields. You have ascertained that Australian experience is that the largest indirect advantage to the State is secured by making mining leases simple and liberal, on the one condition that a certain quantity of labour is employed per acre on *bonâ fide* mining operations. You propose therefore to authorise the Government of Madras to grant gold-mining leases of Government lands, in lots of from 1 to 30 acres, for terms of 10 or 20 years, at a rent of Rs. 5 per acre, on condition that not less than five labourers per acre are regularly employed on *bonâ fide* mining operations, in such manner as Government may approve. Power will be given to the Government of Madras to enforce fulfilment of these conditions, and the leases are to be renewable at the expiration of the original period on such terms as the Madras Government may then settle. You thus leave to the Government of Madras wide discretion with reference to the term and area of each lease, and you do not propose for the present to levy any royalty or other tax on the industry.

8. These arrangements appear to me to be judicious, and I approve them. With reference, however, to the last sentence of the preceding paragraph, and also to the last clause of paragraph 7 of your letter, I am of opinion that it should be made clear that for the term of leases now granted there will be no liability to any future royalty or other tax in addition to the rent, with the exception of any taxation which may hereafter be found necessary to provide, at the expense of mining communities,—the expenses of special police, communications, water-supply, sanitation, or other similar administrative arrangements needful for their own protection or convenience.

9. Finally, I have to observe that the arrangements you now propose appear to refer to mining operations in Government waste lands only. Should, however, it be decided that mineral rights in any owned or occupied lands in Madras are vested in Government, and should gold be discovered in any such lands, I presume that, with due regard to the rights of the cultivating proprietors, mining privileges will be granted on terms similar to those now approved for Government lands.

From the Officiating Secretary to the Government of India to all Local Governments and Administrations,—No. 1-40—48 (Mineral), dated Simla, the 15th May 1880.

In continuation of my Circular No. 2-11—19, dated the 1st September 1879, I am desired to forward copy of a despatch No. 35, dated 25th March 1880, from the Secretary of

State for India, regarding rights of Government to minerals in this country. The policy of the Government of India, as already announced, is generally approved, subject to certain additions to be noticed below.

2. The most important declaration contained in the despatch is that expressed in the fourth paragraph. Hereafter, except in permanently settled estates, it will be presumed throughout India that, in the absence of any distinct judicial precedent or proof of established usage, the State has a right to minerals.

3. Attention is invited to paragraph 2 of the despatch, under which the ruling that grantees of waste lands, whether or not the grants expressly comprise all products above and below the surface, are, in the absence of provision to the contrary, entitled to mines of gold and silver found thereunder, is limited to grantees of waste land "in fee simple," made in accordance with the rules framed upon the intructions given in Sir C. Wood's despatch No. 14 of 1862. Should any question hereafter arise in respect to grants of waste land made on other terms, Local Governments and Administrations will have to consider, in each class of cases, what is the specific effect of the form of grant regulating them as touching rights to minerals. The general ruling above quoted must be held not to apply to ordinary cultivating leases made in the course of settlement operations, or in the routine of district revenue work.

4. The direction in paragraph 5 of the despatch, to avoid conferring proprietary rights in minerals by including them amongst the assessable assets where such ownership has not been previously proved to exist, will be duly observed in making temporary settlements. The view of the Government of India, that where proprietors of temporarily-settled lands have been judicially held to be owners of minerals contained therein, such mineral resources may be taken into account for assessment on resettlement, has been accepted by the Secretary of State. But, as explained in paragraph 2 above, in the absence of a judicial decision, the presumption will be that such landholders are not owners of the minerals underneath the surface of their lands.

5. With reference to paragraph 6 of the despatch, I am to request that the rules regarding the sale and lease of waste lands for agricultural purposes in force in may be modified, so far as may be necessary, to make leases and sales under them subject to reservation of the full right of the State in mines and minerals, and of right of access and other reasonable conveniences for working them on behalf of Government or the assignees of Government. Full publication should be given to the modifications of rule made under these instructions; and copies of such orders as may be passed by the on the matter should be forwarded to this Department for information.

APPENDIX M.

(See Rule 42:)

(1) FORM OF PROCLAMATION AND WRITTEN NOTICE OF SALE OF ATTACHED PROPERTY.
(Under Section 165 of Bombay Act V of 1879.)

Whereas the property of hereinunder specified has been attached on account of the Government assessment Rs. due by the said ; and whereas it is necessary to recover the said amount by sale of the said property, together with all lawful charges and expenses resulting from the said attachment and sale: (Notn. N 4297, B. G., 1884, P I., p. 417.)

Notice is hereby given that on the day of 189 , at o'clock A.M. A. B., the Mámlatdár of (or other person appointed) will, at in Táluka in this District, sell by auction to the highest bidder and without reserve, the right, title and interest of the said in the property hereinunder specified, and every power of disposing of the same or any of them or of the profits arising therefrom which the said may now consistently with the law exercise for his own benefit.

Moveable Property.

1	2	3	4	5	6
Lot No.	Number and description of articles.	Where attached.	Where now placed.	When to be viewed.	Whether the sale is subject to confirmation or not.

Immoveable Property.

1	2	3	4	5	6	7	8	9
Lot No.	Description of Lot, including local situation, supposed or estimated rent or annual value, and, if leased, for how long, on what terms, and to whom.	Survey Number, Municipal number and other fiscal designation.	Government Revenue, including any Local Cess, any other known fiscal charge resting on the Lot.	Present occupant.	(Here enter any other particulars the Collector may see fit.)			

N.B.—No guarantee is given of the title of the said or of the validity of any of the rights, charges or interest claimed by third parties.

(Signed)

Collector.

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(2) FORM OF PROCLAMATION AND WRITTEN NOTICE OF SALE OF RIGHT OF OCCUPANCY OF UNOCCUPIED LAND.

Notice is hereby given that the right of occupancy of the undermentioned unoccupied land, situate in the village of in the Mahál and the Táluka of the District, will be put up to public auction at on day the day of 189 , at or after o'clock A. (or P.) M.

The written (or printed) conditions of sale signed by may be seen on application, during office hours, on any office day before the day of the auction, to the Mahálkari (or Mámlatdar) of or, at the time of the auction, to the officer who conducts the same, and intending bidders are warned that they should ascertain the said conditions before bidding.

Description of the land.

(*Here give a full description of the land, viz. the Survey Number or Numbers, if it has been surveyed, if not, its boundaries; the class of land, i.e., whether it is dry-crop land, garden land, or a building site, &c., the area of the land, adding 'be the same more or less'; the assessment, if any, at present payable for the land, and the term for which that assessment has been fixed.*)

Dated the day of 189.

(Signed)

Collector (or other competent officer).

MEMORANDUM

OF THE

CONDITIONS OF SALE OF THE OCCUPANCY-RIGHT OF THE FOLLOWING UNOCCUPIED LAND TO BE HELD AT ON THE DAY OF 189 , viz.:—

Survey No. , area about acres, gunthás, assessment Rs. , in the village of , Táluka , and bounded on the north by on the south by on the east by on the west by and

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1. The sale shall be subject to confirmation by the Collector, or by some other revenue officer duly authorized to confirm the same.

2. It shall be in the discretion of the Collector, or other officer aforesaid, to accept or not to accept the highest bid.

3. The highest bidder shall have no ground for complaint, if the sale be not confirmed, or if there be delay in the confirmation of the sale.

4. The party who is declared, subject to confirmation of the sale as aforesaid, to be the purchaser shall be required to deposit immediately 25 per centum on the amount of his bid, and in default of such deposit, the occupancy right shall forthwith be again put up and sold.

5. If the proceeds of the sale, which is eventually made, be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land revenue.

6. The full amount of the purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the auction takes place, or if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office day after such fifteenth day.

7. In default of payment, within the said period, of the full amount of the purchase-money, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the occupancy-right shall be resold, and the defaulting purchaser shall forfeit all claim to the occupancy-right, or to any part of the sum for which it may be subsequently sold.

8. If the sale is not confirmed, the purchaser shall be entitled to receive back his deposit, or his purchase-money, as the case may be.

9. The purchaser shall, previously to entering upon occupation of the land, obtain the permission, in writing, of the Mámlatdár or Mahálkari under section 60 of the Land Revenue Code. Such permission will only be accorded on the purchaser's paying local-fund cess at the rate of one anna in the rupee of the amount on the purchase-money, and on his executing an agreement (which should be executed within thirty days of the receipt of intimation by him of the confirmation of the sale), in the form of Appendix D to the rules framed under the Land Revenue Code. If the land is occupied without such permission being first obtained the occupation will be liable to be treated as unauthorized under section 61 of the Land Revenue Code.

10. The purchaser will have to pay the assessment of the land and local-fund cess thereon commencing with the year
Provided that, if without his own fault, he do not obtain possession of the land in due time to make use of it that year, he shall not be chargeable with the assessment and local-fund cess thereof till the next following year.

11. The sale is also subject to all rights of way over the land and all rights of the public to the use of any tank or burial ground existing on the land, and the purchaser shall not be entitled to cultivate or make any other use of the land subject to such rights of way or occupied by any such tank or burial-ground.

12. The sale is subject to the right of Government to the following trees standing in the land, which have been specially reserved (*viz.*) :—

(*Here enter the number and description of trees to be reserved.*)

The trees, other than the reserved ones, are sold along with the occupancy right.

13. (*Where there are toddy and other juice-producing trees, the following condition should be inserted* :—)

Government reserves to itself the right of prohibiting the extraction of the juice of all cocoanut, toddy, bherli-mád, shindi, or other trees growing in the land, and of permitting any person to extract it on certain conditions. The purchaser must afford all reasonable facilities and conveniences to any person licensed by, or under the authority of, Government, to extract juice from any such tree.

(Signed)

Collector (or Mámlatdár or Mahálkari, *as the case may be*).

(Approved by G. R. No. 1189, 13th February 1886, R. D.)

APPENDIX N.

Partition of Estates by the Collector.

1. In the division of an estate ordered by the decree of a civil court paying land revenue to Government, the Collector is bound by the rules laid down in section 113 of the Land Revenue Code whenever they are applicable. If a court assigns rights in specified areas in survey numbers of less extent than the minima prescribed under section 98 of the Code, these rights cannot be registered in the Government accounts, or be otherwise recognized by Government. (G. R. 7052 of 23rd November 1881.)

2. Circular No. 83, at pages 46 and 47 of the High Court Civil Circulars having been cancelled, the Governor in Council is pleased to direct that in future Collectors shall be left free to use their powers under the Bombay Land Revenue Code for the levy of the costs of the partition in execution of a civil court's decree of estates paying revenue to Government. (G. R. No. 1993, 14th April 1890, J. D.)

APPENDIX O.

(Notn. No. 4213, B. G. G., 1881. Pt. I., p. 396.)

In exercise of the powers given by section 55 of Bombay Act V of 1879, the Governor in Council authorizes the Commissioner in Sind to fix rates for the use by landholders and others of water, the right to which vests in Government, for the cultivation of rice on any land not assessed and entered in the Survey Registers as rice land.

2. The amount of such rate shall be subject to the approval of Government, and shall, after sanction, be notified in the office of the Mukhtyárkar of the táluka in which the land on account of which the rate is levied is situated.

3. Any person desiring to grow rice in land not assessed as rice land shall make an application in writing to the Mukhtyárkar, or other officer duly authorized to receive such application, for permission to make use of the supply of water needful for growing rice, stating if he requires it for one year only or permanently; and if any person cultivates rice in such land without such permission, he shall be charged with double the rate he would otherwise have been required to pay had he applied for and obtained permission.

4. All persons, who now hold or may hereafter apply to take up lands assessed and recorded in the Survey Registers as rice lands, shall, as soon as possible after the publication of these Rules or on application to take up such lands, be tendered a list of such rice lands then being or about to be in their occupation, and rice shall not be grown on any number not included in such lists except on payment of the extra rate.

APPENDIX Q.

Form of security bond to be taken from treasurers or other officers of Government entrusted with the charge of public money.

(G. R. 3739 of 2nd Oct. 1882, F. D., and G. R. 1894 of 21st May 1883, F. D.)

KNOW all men by these presents that (Principal) of (1st surety) (2nd surety), of are held and firmly bound unto the Secretary of State for India in Council in the sum of Rs. to be paid to the said Secretary of State in Council, his successors or assigns, or his or their certain attorney or attornies for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and representatives jointly, and every two of us bind ourselves, our heirs, executors, administrators, and representatives jointly, and each of us binds himself, his heirs, executors, administrators, and representatives severally, firmly by these presents, sealed with our seals, dated this day of 189 , and each of us the said doth hereby for himself, his heirs, executors, administrators, and representatives, covenant with the said Secretary of State in Council, his successors and assigns, that if any suit shall be brought touching the subject-matter of this obligation or the condition hereunder written in any court, subject to the High Court of Judicature at other than the said High Court in its Ordinary Original Jurisdiction, the same shall and may at the instance of the said Secretary of State in Council, be removed into, tried and determined by the said High Court, in its extraordinary original jurisdiction.

WHEREAS the above bounden was on the day of 189 appointed to and now holds and exercises the office of Treasurer at ; AND WHEREAS, by virtue of such office, the said has, amongst other duties, the care, charge, and oversight of and responsibility for the safe and proper storing and keeping in the places appointed for the custody thereof respectively, of all money, specie, bullion, coin, jewels, Government currency notes, stamps, and Government securities of whatever description, gold, silver, copper, lead, goods, stores, chattels or effects stored and used at, received into or despatched from the Treasury of or paid, deposited or brought into the said Treasury by any person or persons whomsoever and for any purpose or purposes whatsoever; AND WHEREAS the said as such Treasurer as aforesaid is also responsible that all such moneys, specie, bullion, coin, jewels, Government currency notes, stamps, and Government securities of whatsoever description, gold, silver, copper, lead, goods, stores, chattels, or effects (hereinafter together only called "the said property") are and is of full measure and good quality when received into the said treasury and until he has duly accounted therefor and for every part thereof in manner hereinafter referred to; AND WHEREAS the said is bound, whenever called upon so to do, to show to his superior officers that the said property and every part thereof save so much thereof as he has duly accounted for is at all times intact in the places aforesaid and is also bound to attend for the purpose of discharging his duties aforesaid at such times and places as his superior officers may appoint; AND WHEREAS the said is further bound to keep true and faithful accounts of the said

property and of his dealings under written orders of his superior officers therewith respectively in the from and manner that may from time to time be prescribed under the authority of Government, and also to prepare and submit such returns and such accounts as he may from time to time be called upon to do; AND WHEREAS the bulk of the said property remains as well in the care, charge and custody of the Treasury officer for the time being at as of the said but as between himself and the said Secretary of State for India in Council he the said is alone responsible and answerable therefor and for every part thereof; AND WHEREAS the responsibility of the said for the said property and every part thereof does not cease until the same has been duly used under the written orders aforesaid and accounted for or been duly despatched from the said Treasury and delivered over to and a full and complete discharge therefor obtained from such persons and places as the district officer of or other the person exercising his functions for the time being under the sanction of the Government of may direct; AND WHEREAS the said in consideration of his said appointment has delivered to and deposited with and endorsed over to as such district-officer as aforesaid Government securities to the extent of Rs. of which the numbers, amounts and other particulars are set forth and specified in the Schedule hereunder written for the purpose of in part securing and indemnifying the said Secretary of State in Council, his successors and assigns, against all loss and damage which he or they might or may in any way suffer by reason of the said property or any part or parts thereof being in any way consumed, wasted, embezzled, stolen, misspent, lost, misapplied or otherwise dishonestly, negligently, or by or through oversight or violence made away or parted with by himself the said or any person acting for him in his said office during his absence or otherwise or by any sub-treasurers, servants, clerks, sircars, cash-keepers, poddars, coolies or other persons, nominated or accepted by or serving under him the said or by any other person or persons whomsoever, whether in the service of Government or otherwise; AND WHEREAS the said (principal) and the said (1st surety) and (2nd surety) as his the said sureties in that behalf have entered into the above bond in the penal sum of conditioned for the due performance by him the said of the duties of the said office aforesaid and of other the duties appertaining thereto or which may lawfully be required of him and the indemnity of the said Secretary of State in Council and his servants against loss from or by reason of the acts or defaults of the said and of all and every the persons and person aforesaid: Now the condition of the above written bond is such that if the said has whilst he has held the said office of Treasurer as aforesaid always duly performed and fulfilled the said duties of the said office and other the duties aforesaid and if he the said shall, whilst he shall hold the said office, always duly perform and fulfil all and every the duties thereof aforesaid, and further if the said and do and shall indemnify and save harmless the said Secretary of State in Council, his successors and assigns, the Government of and all and every the person or persons who from time to time has or have held or shall hold or exercise the said office of district officer while the said has held or shall hold and enjoy the said office of Treasurer as aforesaid of and from all and every loss and damage, which during the time the said has held, executed and enjoyed the said office, has happened or been sustained, or shall or may at any times or time hereafter during the time that he the said or his agent or agents, nominee or nominees, shall hold or exercise or act in the said office happen to or be sustained by the said Secretary of State in Council, his successors or assings, the Government of or the said district officer, for the time being, by, from or through the means of the neglect, failure, misconduct, disobedience, omission or insolvency of the said or his said agent or agents, nominee or nominees, or of any of the sub-treasurers, sevants, clerks, sircars, cash-keepers, poddars, coolies or other persons nominated, accepted by or serving under him the said or his said agent or agents, nominee or nominees, or by, from or through the consuming, wasting, embezzling, stealing, misspending, losing, misapplying or otherwise dishonestly or negligently, or through oversight or violence, making away or parting with the said property or any part or parts thereof, by any person or persons whomsoever, whilst he or the said has acted or shall continue to act in the said office of Treasurer as aforesaid, then this obligation to be void and of no effect, otherwise the same shall be and remain in full force and virtue: Provided always and it is hereby agreed and declared that neither of them the said and shall be at liberty to terminate their suretyship except upon giving to the district officer for the time being of the Government of six calendar months' notice in writing of his or their intention so to do and their joint and several liability under this bond shall continue in respect of all omissions and defaults on the part of the said until the expiration of the said period of six months; Provided always and it is hereby declared and agreed by the said and with the said Secretary of State in Council, that the Government Promissory Notes for Rs. so deposited as aforesaid respectively or such other Government security or securities to the same amount as the district officer for the time being of the Government of may consent from time to time to accept and receive and shall accordingly receive in lieu or exchange for the same and the

G. R. 3378, F. D., 9th Dec. 1885.

interest thereof respectively shall be and remain with the said district officer for the time being or the Government of as and for part and additional security to the said Secretary of State in Council, his successors and assigns, for the purposes aforesaid with full power to the said Secretary of State in Council, his successors or assigns, or his or their officers and servants, duly authorised in that behalf, from time to time as occasion shall require, to sell and dispose of the said Government securities or a sufficient portion thereof with the interest thereon and to apply the proceeds thereof in and towards the indemnity as aforesaid of the said Secretary of State in Council, his successors and assigns, as the case may require, but nevertheless the interest of the said Government securities may in the meantime be paid over as the same shall be realised by the said district officer for the time being or the Government of if they shall think fit to the said : Provided further and it is hereby expressly agreed and declared between and by the said and the Secretary of State in Council that it shall be lawful for the said with the consent of the said district officer or of other the person exercising his functions for the time being under the sanction of the Government of first had and obtained to change and substitue for the said deposit of Government promissory notes for Rupees or any part thereof or for any substituted notes from time to time other notes of the same or other loans of the same or greater value without in any way affecting the obligation of the said bond or the liability of the said and as such securities as aforesaid.

The Schedule above referred to

G. R. 3378, F. D., 9th Dec. 1885. And it is hereby lastly agreed and declared by and between the said [*Principal*] and the said [*one surety*] and [*other sureties*] as his the said [*Principals*] sureties and the said Secretary of State that on the vacation by the said [*Principal*] of his said office of the above-mentioned Government promissory notes for Rupees. or any notes that may be substituted therefor as aforesaid shall not be at once returned to him but shall be and remain with the said [*the authority with whom the notes are deposited*] for the term of six months as security against any loss that may have been incurred by the Secretary of State owing to the neglect or default of the said [*Principal*] or any other person or persons as aforesaid and which may not have been discovered until after the vacation of his appointment by the said [*Principal*] ; *Provided always* that the return at any time of the said Government Promissory notes shall not be deemed to affect the right of the said Secretary of State to take proceedings upon the said bond against the said [*Principal*] and [*sureties*] in case any breach of the conditions of the said bond shall be discovered after the return of the said Government Promissory notes.

NOTE.—It is not necessary or possible that all security bonds, to be executed in future, shall be drawn up in the exact form which is here prescribed. Modifications will no doubt be required to render the form of agreement suitable in particular cases, but it is important that there should be as little difference as possible in the nature of the obligations of the signatories to the bond, and the interests of Government must in every instance be fully secured.

The Revenue authorities are, subject to the orders of Government, responsible for seeing that adequate security is taken from any of their subordinates (including all officers in district and sub treasuries) who may be entrusted with the custody of public money. (G. R. 3739 of 2nd October 1882, F. D.)

The above form is to be used in cases in which Government paper is deposited under section 23 of the Land Revenue Code : in other cases the form prescribed by section 23 of the Code must be used. (G. R. 7522 of 26th October 1882.)

It should be left optional with subordinate Revenue officers who are entrusted with the charge of public money either to deposit Government Promissory notes, or to execute a bond in the form contained in Schedule B. of the Bombay Land Revenue Code of 1879.) (G. R. 3031 of 17th August 1883, F. D.)

Form of lease to be granted to an occupant who takes up land on special terms under No. 19 of the Land Revenue Code Rules.

This is to certify that, with the previous sanction of the Commissioner (in Sind, *or as the case may be*)

of has been granted the occupancy of Survey No. in the village of in the Táluka of the District for a term of years from the day of 189 , subject to the payment of land revenue as follows (viz.):

(*a*) for the first years, A. D. 189. to 189 , nil ;

(*b*) for the next years, A. D. 189. to 189 , a reduced assessment of Rs. ;

The reason for the grant of the said occupancy on the favourable terms aforesaid is that the lessee has undertaken, at his own expense, within a period of from the day of 189 , to carry out, to the satisfaction of , the following work, whereby the cultivation of the said survey number will be improved (or rendered feasible, or *otherwise, as the case may be*), *viz.*

(Here describe as accurately as possible the work to be executed).

The conditions on which this lease is granted are:

(1) that the lessee shall completely execute the work aforesaid to the satisfaction of the said within the period above mentioned;

(2) that he shall keep the said work when executed in good order and repairs to the satisfaction of the said until the expiry of this lease;

(3) that if the lessee shall fail to perform either of the aforesaid conditions he shall be liable, notwithstanding anything hereinbefore written, to pay the full assessment of the land comprised in this lease, amounting to Rs. , for the year during which such failure shall take place and for every subsequent year of the term of this lease:

(4) that the lessee shall be entitled, on the expiry of this lease, to retain the occupancy of the land herein comprised, subject to the payment of the full assessment from time to time fixed thereupon under the law and rules in force in this behalf, on his executing an agreement in the form prescribed for persons who intend to become registered occupants.

This lease is executed on behalf of the Secretary of State for India in Council, by order of the Governor of Bombay in Council, by the Collector of , and under his seal of office, this day of 189 .

Seal.

(Signed)

Collector.

I the aforesaid lessee do hereby accept this lease on the terms and conditions therein mentioned.

Signed by

In the presence of

(Signed)

Lessee.

(Approved by G. R. 7033, 3rd September 1884.)

ADDITIONAL ORDERS AND OPINIONS.

Section 31.

Village Officers purchasing at public sale.

Clauses (1) and (2) of section 31 of the Land Revenue Code should be construed strictly in the case of stipendiary village accountants and permission should not be given to them to engage in money lending or to purchase lands at public sales. Clause 3 if strictly enforced would prohibit them from holding any lands paying revenue to Government. His Excellency in Council does not however object to the holding of hereditary lands by stipendiary village accountants or absolutely to their holding of lands purchased otherwise than at a public sale. The section requires that every revenue officer who holds land paying revenue to Government in the district in which he is employed should obtain permission to continue to hold it and the Collector can give or withhold permission according to the merits of each case, taking care that his orders are not unduly harsh. If the Collector considers that the position of a talâti as a holder of land in his own charge, tâluka or district, conflicts in any case with the proper performance of his duty as a village accountant, he can have him transferred. (G. R. No. 5635, dated 31st July 1883, R. D.)

Section 32.

Maximum period of suspension.

The maximum period for which suspension from office should be awardable as a specific punishment under section 32 of the Land Revenue Code should be fixed at six months. This is the period mentioned in the Hereditary Offices Act and in the Bombay Village Police Act. It appears hardly practicable to fix any maximum period for suspension pending or during inquiry into alleged or suspected misconduct, but in cases where an officer is suspended for such a cause the inquiry should be carried out as promptly and speedily as possible and no unnecessary delay should be permitted to occur. Such an inquiry would ordinarily not occupy a very long period, but when it is not completed within two months from the date of the suspension of the official concerned a monthly report by the Collector should be furnished. (G. R. No. 9981, dated 19th December 1884, R. D.)

Application of section 58 of the Land Revenue Code.

Receipts in alienated villages.

Section 85 prohibits the receipt of his rents direct by any inámdár in whose village there exist an hereditary pátil and village accountant. If the latter officers fail to account to the inámdár for his dues, or if there are no such officers in his village, the Code does not prohibit his making his levies direct. But whether he recovers his dues direct or through the village officers, the second paragraph of section 58 requires him to give a written receipt for every payment of rent or land revenue made to him, and such receipts must be countersigned by the village accountant, if any. This latter provision shows that the paragraph in question is not intended to operate only when an inámdár recovers direct. Even when payments are received by an inámdár through the village officers he must sign the written receipt. The village accountant must countersign it merely. (G. R., R. D., No. 5804 of 4th August 1883.)

"It does not appear to be legally necessary that an inámdár should be present when the village officers are making the collections or that he should give an immediate receipt for each individual payment the moment it is made.

"2. It would suffice if all the receipts (which should be already countersigned by the village accountant) were brought to the inámdár to sign when the collections had been completed, or at stated intervals. There is no reason why these receipts should not be given in the rayat's receipt-books, whenever that would be the most convenient course." (G. R. No. 9107 of 18th November 1884, R. D.)

Section 85 of the Bombay Land Revenue Code applies to payments in kind as well as to cash payments. Village officers ought to be present at the time of payment in kind which could then be made through them and they would countersign the receipt as required by clause 2 of section 58. (G. R. No. 6020, dated 15th August 1883, R. D.)

Application of section 61.

Section 61 inapplicable to alienated villages.

Section 61 of the Revenue Code is not applicable to alienated villages or lands. An inámdár's proper remedy, in case of unauthorised occupation of his land, is a suit in the Civil Court. (G. R. No. 5205, dated 25th June 1885, R. D.)

Application of section 72 of the Land Revenue Code.

Unregistered vendee of deceased occupant.

A registered occupant of a survey number died without known heirs, but before his death transferred the possession of his land to a third person by a deed of sale duly registered: the necessary corrections were not made in Government books.

"Under the latter part of section 79 of the Code, the Collector was not bound to recognize the deceased occupant's vendee.

"Section 79 was expressly inserted in the Code in order that the parties to transfers of occupancies might be made to feel the absolute necessity of obtaining a mutation of names in the Collector's books, and so, in time, the recorded occupants would always be found to be the actual occupants. (G. R. No. 3102 of 20th April 1883, R. D.)

Duty of Collector as to occupancy of deceased, intestate and without known heirs.

Memo. by L. R.:—"The ordinary law regarding the property of a person who dies intestate and without known heirs is that contained in section 10 of Regulation VIII of 1827. Under it the District Court appoints an administrator for the management of the property, and after he has had charge of it for about two years, it is sold under the orders of the High Court and the proceeds are 'deposited in the public treasury for the eventual benefit of all concerned.'

"2. Section 72 of the Revenue Code excepts occupancies belonging to Hindus, Mahomedans or Buddhists from this general law, and directs that in their case 'the occupancy shall be disposed of by the Collector by sale subject to the provisions in force * * * for the sale of forfeited occupancies in realization of the land revenue' and that the net proceeds only shall be subject to the provisions of the ordinary law regarding intestate property. The effect of this is that the occupancy of a Hindu, Mahomedan or Buddhist who dies intestate and without known heirs, instead of being managed and eventually sold by the Názir of the District Court (who is generally the administrator appointed under section 10, Regulation VIII of 1827), is sold by the Collector, and the net proceeds are made over by the latter to the Názir for credit to the deceased's estate.

"3. The doubt is whether when occupancies are thus sold by the Collector, they are to be sold 'freed from all tenures, incumbrances and rights created by the occupant,' like forfeited occupancies (*vide* section 56 of the Revenue Code) or whether the right, title and interest of the deceased occupant merely are to be disposed of.

"4. The intention of section 72 of the Code appears to be to prevent the occupancies of persons dying intestate coming under the management of the District Court's administrator. The section was inserted by the Select Committee who, in paragraph 32 of their final report on the Revenue Code Bill, dated 1st May 1877, said its purpose was 'to enable the Collector to dispose of the occupancy of an occupant dying intestate and to stay the operation of the law regarding property left by persons dying intestate until the occupancy has been sold and arrears due to Government secured.' Much correspondence and trouble are saved by keeping the control of such property in the hands of the Collector, who is obviously far better able than the District Court's Názir to manage and sell it to the advantage of the deceased's estate. It was not the intention of the Legislature to forfeit in such cases subordinate rights created by the deceased occupant. The words in section 72 'subject to the provisions * * * in force for the sale of forfeited occupancies in realization of the land revenue' may, at first sight, be thought to bear this meaning, but it ought not to be concluded that it was the intention of the Legislature thus to abrogate vested rights unless such intention is very clearly and unmistakeably indicated in the language of the enactment. The words quoted do not appear to mean more than that an intestate occupant's occupancy should be sold subject to the same rules for regulating the sale as a forfeited occupancy, and this construction of them is consistent with the apparent purpose of the section. There is no reason to think that the Legislature contemplated attaching the same penal consequences to an occupant dying intestate and without known heirs as to the failure of a living occupant to pay the land revenue due on his occupancy. Such a provision would be unjust, and whenever the language of an enactment 'admits of two constructions, according to one of which the enactment would be unjust * * * and according to the other it would be reasonable and wholesome, it is obvious that the latter must be adopted as that which the Legislature intended.' (Maxwell, Interpretation of Statutes, 179).

"5. On these grounds, under section 72 of the Revenue Code, all that the Collector sells is the right, title and interest of the deceased occupant, and subordinate rights are not affected by such sale. This was the opinion quoted in the preamble of Government Resolution No. 2711 of 26th April 1882—'the occupancy in this case is not forfeited by Government before it is disposed of by sale. It is 'sold as the heritable transferable property of the deceased occupant.'

"6. But although subordinate rights are not affected by the sale, still, as stated in the preamble to Government Resolution No. 3102 of 20th April 1883, if the deceased was a registered occupant the Collector is not bound to recognize his vendees or other subordinate holders. If the deceased person is the registered occupant, the Collector is not bound to recognize 'any person to whom any interest in any portion of the occupancy * * * has been assigned' (*vide* section 79 of the Revenue Code).

"7. It is not necessary that the Collector should hold an inquiry for the purpose of ascertaining 'whether the occupancy has not passed to some other person who is in lawful possession.' The Collector, if he held any such inquiry, would not be competent to pass any order determinative of the rights of the respective claimants and possibly many claimants would object to reveal their title to him. The title of the deceased should be sold for what it is worth, the purchaser making his own terms with, or taking such steps as he thinks fit against, other claimants. It may be that the purchaser of a deceased registered occupant's right, title and interest will sometimes acquire nothing by the purchase except the right to become the registered occupant. In such cases it will usually be to the interest of the assignee or of one of the assignees of the deceased registered occupant to become the purchaser.

"8. The words 'the Collector shall dispose of his occupancy by sale' in section 72 appear to leave the Collector no option. The right, title and interest of the deceased must be sold for what they will fetch. The reason of this is that the Collector, so far as regards these occupancy rights of persons dying intestate, takes the place of the administrator appointed by the District Court under Regulation VIII. of 1827, and just as it was formerly the duty of the administrator to sell such rights for whatever they might fetch 'for the eventual benefit of all concerned,' so is it now the Collector's duty to realize by the sale of the deceased's right, title and interest whatever he can for the benefit of the estate.

"9. The word 'occupant' which is used in section 72 must be taken in its general sense, as defined in section 3, clause (16) of the code, and not be deemed to apply to registered occupants only. If the person who has died intestate and without known heirs is an occupant, but not a registered occupant, his right, title and interest will be sold by the Collector without affecting in any way the title of the registered occupant." (G. R. No. 783, dated 27th January 1885, R. D.)

Opinion of the Honourable the Advocate General.

1. In the case of a registered occupant such as described in section 72 of the Land Revenue Code dying intestate and without known heirs, and of another person claiming that the occupancy has been sold to him by the deceased though not transferred in the Government books, I am of opinion that the provisions of section 72 come into force, by which it is enacted that—

> "The Collector shall dispose of his occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land revenue."

It is difficult not to consider the provisions of section 56 as being 'provisions for the sale of forfeited occupancies in realization of the land revenue' within the meaning of section 72. And having regard to the provisions in section 79—

> "That the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an occupancy or absolute holding has been assigned, unless the transfer has been recorded in the revenue records in accordance with the foregoing provisions,"

I think that the Collector is empowered to sell the occupancy of the deceased registered occupant without regard to the rights (if any) of the alleged vendee.

2. But I think that the Collector should exercise this power so as to interfere as little as possible with any right the existence of which is established to his satisfaction. In my opinion the provisions of section 81 which afford an alternative procedure in certain cases for the sale of a forfeited occupancy in realization of land revenue may properly be regarded as included among the provisions referred to in section 72. If therefore the Collector is satisfied that the occupancy has really been sold by the deceased registered occupant to the alleged vendee, and that such procedure will meet the justice of the case, I think that he may properly substitute the name of the alleged vendee in the revenue records for that of the deceased registered occupant.

3. I observe that section 56 enables the Collector to dispose of a forfeited occupancy under rules or orders to be made under section 214. I am not aware whether any rules have been made in this behalf under section 214; but if such rules have been made and the Collector has power thereunder to dispose of a forfeited occupancy without prejudice to rights previously created by the occupant, it seems desirable that he should adopt such mode of procedure in cases similar to the one suggested under section 72, when the case does not seem to him to be one in which the provisions of section 81 can be properly applied. (Concurred in by Government in G. R. No. 10023, dated 14th December 1885.)

Memo. by L. R.:—

Section 72 inapplicable to alienated lands.

"The word "occupant' cannot be held to include a holder of alienated land and the Collector should not, I think, attempt to take action under section 72 of the Revenue Code in the case of alienated holdings." (G. R. No. 3812, dated 13th May 1885, R. D.)

Memo. by L. R. :—

"Section 19 of the Bombay Village Police Act (Bombay VIII of 1867) imposes upon the police pátil the duty of taking charge of all unclaimed property and of reporting his proceedings to the Magistrate to whom he is subordinate. Property left by a person who dies intestate and without known heirs is 'unclaimed property' within the meaning of this section, and if, in addition to some moveable property, the intestate has left some land, inquiry will soon enable the Magistrate to determine whether the deceased was an occupant and whether, therefore, the Collector should take action under section 72 of the Revenue Code. As a matter of practice, I believe, every case of a person dying intestate is reported by the village officers to the higher authorities, whether under the provisions of section 19 of the Village Police Act, or otherwise, and there is little probability, I should think, of any case of any importance escaping notice. The Collector can only take action in the cases which are reported to him, and I do not think there is any need for special measures to ensure every case being reported. The number of occupants, not being registered occupants, who die intestate and without known heirs is probably inconsiderable." (G. R. No. 3813, dated 13th May 1885, R. D.)

Section 72. Procedure in case of occupants who are not registered, dying intestate, &c.

Memo. by the Acting L. R. :—

"2. Land wholly or partially exempt from the payment of Government land revenue is liable on the death of the last holder intestate and without known heirs, to be dealt with under section 10 of Regulation VIII of 1827, and the High Court may direct either (*a*) that it should continue under the management of an administrator appointed by the District Judge, or (*b*) that it be sold under the authority of the Court and that the proceeds be deposited in the public treasury for the eventual benefit of all concerned.

Action of Collector as to *alienated* land of deceased intestate without known heirs.

"3. If the latter course be taken, the exemption being a heritable transferable property, the land must necessarily be sold free from liability to assessment, as otherwise the person entitled to the proceeds would lose part of the value of the estate.

"4. But if this sale take place, Government must necessarily lose what, if there are no heirs or assignees of the intestate, Government would otherwise gain, viz., the right to the full assessment which might be levied on the extinction of all rights to exemption.

"5. In view of the opinion expressed by the Advocate General in his No. 74 of 12th June 1872, Government modified Resolution No. 1983 of 25th April 1872 by Government Resolution No. 2935 of 19th June 1872, by directing that the Collector should deal with such land subject to any order that may be made by the Civil Court under Regulation VIII of 1827, section 10.

"But the Resolution thus modified directs the Collector to declare the land *khálsa* at once, and leaves any heirs that may subsequently appear to be referred to Government. (*Vide* Nairne's Revenue Hand-book, page 538.)

"6. The Collector of Dhárwár points out that an order declaring the land *khálsa* may be practically set aside by an order of the District Judge appointing an administrator.

"7. The Collector adds that no executive order could operate to make the land *khálsa*.

"8. The difficulty referred to by the Collector of Dhárwár is one that could only arise when the Hight Court has directed the *sale* of lands wholly or partially exempt for the eventual benefit of all concerned.

"9. But this procedure would only be followed in cases in which no person had appeared and established a right.

"10. Before such procedure can be taken, section 10, clause I, requires a proclamation to issue calling upon the heir of the deceased or *any person entitled to receive charge of the property* to attend and prefer his claim, and under clause 3 of the same section, if any person appears and satisfies the Judge of his right to the possession of the property or any part of it as heir, executor, administrator *or otherwise*, it *shall* be delivered up to him.

"11. If no such person appear or establish such right there are two alternatives open to the High Court—

(*a*) to direct the property to continue under the management of an administrator for a further period, or

(*b*) to direct a sale.

"12. But if there be no heir, assign or other person claiming through the deceased intestate, the property lapses to the Crown by escheat.

1 Beng. L. R. O. C. 87.

The property vests in Her Majesty not by virtue of Regulation VIII of 1827, but by virtue of the territorial law of British India.

"13. On failure of heirs, the Collector, it appears to me, would be as much 'entitled to receive charge of the property' on behalf of Her Majesty, as any other person to whom rights accrued on the death of the deceased.

"14. If any heir subsequently appear, the result would be the same as if the estate had been claimed by a private person, whose right was afterwards found to be excluded by a better title.

"15. In such case Government would be responsible to such heir.

"16. But there is no necessity for a sale by the Court, nor do I think that the property could be sold, if the Collector claimed that he was entitled to receive charge of the property on behalf of Her Majesty.

"17. In order, however, to avoid the risk of litigation in such cases as to claims that might afterwards be brought forward, I think the High Court might be moved to direct under section 10, clause 4, that such property should continue under the management of an administrator, until such period had elapsed as would render the chance of any claim being preferred infinitesimally small, and Government might then through the Collector, put in their claim to the property as having passed to Her Majesty by escheat. The land could then be dealt with as proposed in Government Resolutions Nos. 1983 and 2935 of 1872, Nairne's Hand-book, page 538.

"18. The declaration that the land had become *khálsa* would no doubt be inoperative as against any person purchasing the property as the estate of the deceased under the order of the Court. But such an order could not, I think, be passed if the land were claimed by the Crown. For sale can only be directed when no one appears and establishes a right to receive charge of the property. Government appear to me to have as good a right to put in their claims and protest against such sale, as any other claimant to the estate of an intestate, and if it appear that there are no heirs, &c., the Courts would I think be bound to recognize the right of the Crown, and to direct delivery to its officers, on such claim being preferred, instead of directing a sale.

"19. The point has, so far as I can ascertain, never been decided, but there are several cases on record in which Government have claimed the right to specific property by escheat, and there is no law which requires that instead of taking the specific property, Government would be entitled only to the proceeds realised by its sale. Legislation is, therefore, I would submit, unnecessary.

"20. The question involved might perhaps be raised in a test case if desired, and if the High Court hold that intestate property must in all cases be sold whether the right of the Crown is put forward or no, steps might then be taken to modify the law as to the procedure to be taken in such cases. But I think the rights of the Crown do not depend on Regulation VIII of 1827 and that section 10, clause 4 only prescribes the procedure when no claim whatever is preferred to the property."—(G. R. No. 8407, dated 15th December 1888.—R.D.)

Section 86.

Exercise by Mámlatdárs and Mahálkaris of powers under sections 86 and 87 of the Land Revenue Code.

Assistance to superior holders in recovery of dues.

In districts where the practice still obtains, the Mámlatdárs may continue to exercise the same powers under sections 86 and 87 of the Land Revenue Code which they previously exercised under Regulation XVII of 1827. As regards Surat and Thána where the practice has been discontinued, His Excellency the Governor in Council is pleased to authorize the Collectors to delegate to the Mámlatdárs in their districts powers under sections 86 and 87 of the Code. (G. R. No. 2598 of 31st March 1883.)

Government Resolution No. 2598, dated 31st March last, should be held applicable to Mahálkaris, who should continue to exercise the same powers under sections 86 and 87 of the Land Revenue Code which they previously exercised under Regulation XVII of 1827. (G. R. No. 6024 of 15th August 1883, R. D.)

Right to assistance in recovery of Local Fund Cess.

Meaning of Superior Holder in Bombay Act III of 1869 to be gathered from the B. L. R. C.

Memo. of L. R.:—Looking to the manner in which Bombay Act III of 1869 has been amended by Bombay Act I of 1884, and especially to the fact that the references in it to the older revenue law have been changed throughout to references to the Bombay Land Revenue Code, I am unable to concur in the Commissioner's present argument that the term "superior holder" in section 8 of Bombay Act III of 1869 must be interpreted according to the definition of that term in Bombay Act I of 1865 and not according to the definition in the Land Revenue Code.

2. Section 8, Bombay Act III of 1869, enacts that "the provisions of the law relative to the assistance to be given to superior holders for the recovery of their dues from their tenants * * * shall be applicable to all superior holders * * * in respect of the recovery of this cess from their tenants"; and when we enquire what law is here referred to, we find it now-a-days in Sections 86 and 87 of the Land Revenue Code, in which the term "superior holder" is governed by the definition of it given in that Code. On this ground also, I am of opinion that the term "superior holder" in Bombay Act III of 1869 has now the same meaning as in the Land Revenue Code. No special meaning is attached to it in Bombay Act III of 1869 and the enactment which is referred to with respect to it is, therefore, I think, the one in which its meaning must be sought.

3. Without denying that the Desái has a reversionary right in the village of Ranujla or that it is a part of the political holding standing in his sole name in the Collector's records, he is not at present the *de facto* superior holder of it; his bháyads are the superior holders and they, and not he, are legally liable for the local fund cess to Government and they, therefore, and not he, are the persons who are entitled to be assisted, if necessary, to recover it from the tenants. (G. R. No. 2072 of 4th April 1888, R. D.)

Appearances under Sections 86 and 87 need not be made by Pleaders.

Memo. by the Acting L. R.:—"In the accompaniments to Government memorandum No. 8081 of 15th November 1889, the question raised is whether superior holders applying under Section 86 of the Bombay Land Revenue Code for assistance in recovery of dues from inferior holders can be represented by any person who is not a Pleader.

"2. The difficulty arises from Section 196, Bombay Land Revenue Code, which declares that all formal and summary enquiries under that Act shall be deemed judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code, and that the office of any authority holding any such enquiry shall be deemed a Civil Court for the purposes of such enquiry.

"3. It would seem that such inquiries under Sections 86 and 87 of the Bombay Land Revenue Code are judicial proceedings for the purposes only of Sections 193, 219 and 228, Indian Penal Code, and under the maxim *expressio unius est exclusio alterius* are not judicial proceedings for the purposes of any other enactments.

"4. The office of the authority making such an inquiry is a Civil Court for the purposes of the inquiry, but the proceedings are judicial only in the above limited sense and the appearances, applications and acts authorised by law to be made or done, are not made or done by parties to a *suit* or appeal within Section 36, Civil Procedure Code, and Section 37 of the Civil Procedure Code would not appear therefore to apply.

"5. That such offices are not Civil Courts for all purposes is clear from Section 87 of the Bombay Land Revenue Code, which provides for recourse to the Civil Courts as distinguished from such offices.

"6. Regulation II of 1827, Section 47 (1), which is still in force, requires that no person shall be allowed to act in any judicial proceeding in any Court except the Pleaders, the parties or their recognised agents.

"7. But Section 47 refers to Courts appointed under that Act with jurisdiction over all suits of a civil nature of which their cognizance was not barred. It did not refer to what were then called Revenue Courts.

"8. The recourse to the Civil Courts, now reserved by Section 87, Bombay Land Revenue Code, was, under Clause 5 of Section 26 of Regulation 17 of 1827, to the Collector and when this jurisdiction was taken from him by Bombay Act II of 1866, special provision was made by Section 8 of the last-mentioned Act for pleaders engaged in such suits, then pending, to appear in the Civil Courts. This seems to indicate that Section 47 of Regulation II of 1827 was not deemed applicable to Revenue Courts.

"9. As, moreover, inquiries under Section 87, Bombay Land Revenue Code, are by Section 196 judicial proceedings only within the meaning of the specified Sections of the Indian Penal Code, Section 47 of Regulation II of 1827 would not apply to them.

"10 If there is any doubt whatever as to the applicability of Section 37 of the Civil Procedure Code to inquiries under Section 87 of the Bombay Land Revenue Code, it is open to Government, with the previous sanction of the Government of India, to declare that the provisions of Section 37, Civil Procedure Code, shall not apply to such inquiries (*vide* Section 4A (1) of the Civil Procedure Code, as amended by Act VII of 1888, Section 3), or shall apply with such modifications as may be prescribed." (G. R. No. 840, 1st February 1890, R. D.)

Section 88.

Assent of all shares in an Inám village necessary to extension of Chapters VIII to X thereto.

Memo. by the Acting L. R.:—"One of the inámdárs of a village has applied under section 216 of the Bombay Land Revenue Code, 1879, for the extension of the provisions of Chapters VIII to X of that Code to the said village, but one of the sub-sharers has not consented to the introduction of the survey rates into the village. The Commissioner, C. D., considers that the dissent of the sub-sharer is immaterial.

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unalienated villages have or are affected by. Am
Honourable Mr. Naylor in his report No. 956 of 1
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assent.

ection 216, Bombay Land Revenue Code, requires
II to X can be extended to alienated villages that th
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lages which have been surveyed and assessed may b
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. No. 7136, 24th Sept. 1883, R. D)

of owners for purtural statistics to dition of powers Section 88.

by the L. R :—" An inámdár who holds a commiss
the power described in clause (a)
Revenue Code is entitled to take
Collector is authorized to take und
Referring to Section 138 of the
nly authorized to take precautions under Sections 1
revenue of the current year' and the inámdár's p

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e power to attach property conferred upon an iná
the Code is not restricted by any reference to any
tment, and there is no reason, I think, for holding th
lice of his demand before proceeding to attach his d
al objection to his sending a preliminary notice to t
such a course would be commendable, but it is not o
entitled afterwards to recover as a revenue-demand
notice." (G. R. No. 2901, 15th April 1886, R. D.)

Section 113.

No. 83 at pages 46 and 47 of the High Court's Ci
cancelled, the Governor in Council i
future Collectors shall be left free t
Land Revenue Code for the levy of the costs of th
s decree of estates paying revenue to Government
. D.)

of partitions.

Section 119.

llency the Governor in Council concurs with the
Section 119 does not contemplate
the ground of incorrectness in thei
96, 23rd May 1889, R. D.)

boundaries.

Section 152.

Notice-fees how to be credited when monies due to other departments are recovered by Revenue Department.

Memo. by the L. R:—When recoveries are made by the officers of the Revenue Department under the provisions of Section 187 of the Land Revenue Code, notice-fees, cost of arrears and expenses of sale, or any one or more of these that may be recovered should be credited to the Land Revenue Department and penalty or interest alone should be credited to the department for which the recovery is made. I base my opinion on the principle that amounts directly connected with the execution of processes, in other words, amounts which represent the money value of the trouble and loss of time caused to the officers of Government, ought naturally to go to the department on which devolves the duty of executing the processes. (G. R. No. 9587, 4th December 1884, R. D.)

Section 176.

Defaulting purchaser's liability when no bid at second sale.

"Certain land has lately been put up to auction in the Olpád Táluka by the Collector in execution of a Civil Court decree. It fetched a bid of Rs. 84, but the purchaser failed to make full payment. The deposit was therefore forfeited to Government and the property again put up to sale, but no bidder appeared. The whole of the price bid at the former sale has therefore been recovered from the defaulting purchaser.

"The deposit being one-fourth of the bid has been credited to Government under Section 175 of the Land Revenue Code. The question is what is to be done with the other three-fourths."

Memo. by the L. R.:—"As there was no bidder at the second auction, no sale of the property has yet been effected. Section 176 of the Land Revenue Code is, therefore, in my opinion, inapplicable to the case at present.*

"2 But supposing that the property should be eventually sold for, say, one rupee, the defaulting purchaser would, I think, be liable to pay under Section 176 the difference between the amount of his bid and one rupee, *i. e.*, Rs. 84—1=Rs. 83. For this sum he would, it seems to me, be liable in addition to the forfeiture of his deposit already made under Section 175, the object of Section 176 being to secure to the owner of the property at least the amount bid for it in the first auction." (G. R. No. 4779, 5th July 1886, R. D.)

Resolutions on Rules 93 to 98. (*Vide p. 43 et seqq.*)

Policy of Government as to trees in varkas.

There is no question that the general policy of Government is, as the Legal Remembrancer represents, to withdraw all interference with the occupants of survey fields, and to leave the land to the cultivator with the use of all that grows upon it. But it is often necessary to make exceptions to a general rule, and a variation of the standing orders in the case of varkas land, of which the circumstances are exceptional, is not a reversal of the general policy.

2. The necessity of treating varkas exceptionally has been established by facts, and is affirmed by officers of great local experience who are themselves among the advocates of the general policy of non-interference and whose advice the Governor in Council is unable to disregard.

3. It is proposed to make an exception to the general rule in the case of three districts only and in these districts only with regard to the peculiar kind of land classed as varkas. This land, though technically occupied, is really forest rather than cultivated land and should never have been brought within the scope of rules properly applicable to the latter. It is covered with valuable trees hitherto reserved, the destruction of which would cause a heavy loss to the State; and it is simply proposed to maintain the reservation, and manage the trees through the Forest Department for the benefit of the public revenues. There will be no stricter surveillance or greater interference on the part of the Forest Department than there has been in the past.

4. What is required is that in varkas lands the Forest Department shall not be bound to cut its reserved timber as soon as possible and to withdraw its interference which is the general rule, but should be empowered to manage the reserved trees, principally teak, to the best advantage, obtaining successive growths by coppicing, and exercising continuous control. In the special circumstances of varkas lands this would not appear necessarily to involve annoyance to the occupants. (G. R. No. 3462, 5th May 1883, R. D.)

Memo. from the Commissioner, C. D., states that in paragraph 6 of Government Resolution No. 4565, dated 13th July 1882, on the forest settlement of the Sátára District, Government direct that the plan of selling to holders of occupied numbers, which are not wanted and never will be required for inclusion in reserved forests, the teak trees growing in those numbers, should be adopted; and enquires whether he is to understand from this order that a notification should be issued informing the owners or holders of such lands that they are at liberty to purchase these trees if they should wish to do so; the Collector states that he sees no objection to the issue of a notice; the Commissioner stating that special orders are necessary for the sale of the trees; making remarks and suggestions; and submitting for approval a form of register of the tree settlement of all non-forest lands.

* Cf. B. H. C. P. J. for 1886, p. 263.

Resolution.—By Resolution No. 3462, dated the 5th May 1883, a special rule has been sanctioned for the preservation of reserved trees in certain exceptional areas below the ghâts. If there are exceptional areas in other districts in which the public interests call for a similar special rule, their cases will be considered as they are submitted.

2. This special rule and the demarcation of forests in progress will obviate all danger of the destruction of forests on water-sheds and mountain slopes which is urged as a reason for not disposing of the trees in occupied numbers to the occupants.

3. The Government trees in numbers which have been registered for future inclusion in forests should not be disposed of, and the Collector has full discretion not to grant the right of occupancy of numbers which contain valuable trees. The orders however in Resolution No. 4565 of July 13th, 1882, paragraph 6, relate to the sale to the occupants of reserved trees in occupied numbers which are not wanted for inclusion in forests. In regard to these the policy of Government is that stated by the Commissioner, C. D.

4. As the demarcation and settlement of forests is now well advanced, it is expedient, as a general rule, that the sale of the trees to the occupants should follow on the completion of the settlement. The area of forest will then have been finally determined, and the trees on occupied numbers not included or to be included in forests should pass into the charge of the Collector, who should offer the whole of the trees on each number to the occupant at a fair upset price. The procedure suggested by the Survey and Settlement Commissioner should be followed, viz., that "the option of purchasing at that price should be continued to the cultivator for a period of, say, two years, in order that, if not possessed of the necessary funds at once, he may try to scrape the amount together. Lists showing all the numbers, the reserved trees in which have not been sold outright and stating the upset price of the trees, should be hung up in the chávdi of the village, so that there may be no chance of any misunderstanding." If the occupant finally declines to purchase, the reserved trees should be cut and removed by the Forest Department.

5. There will be no necessity of a separate register if every sale out and out of reserved kinds of trees to the occupant is communicated by official order of the Mámlatdár to the village accountant, who can record the fact with number and date of order in the column of remarks in the village Register (Hope's Form No. 1). (G. R. No. 3906, 22nd May 1883, R. D.)

Limit of Superior Holder's right to assistance in recovery of Local Fund Cess.

Revenue officers cannot assist Superior Holder to recover on agreement more than is leviable by law.

Memo. by the Acting L. R. :—1. A Jághirdár obtained agreements from his tenants binding them to pay as Local Fund cess sums in excess of the Local Fund actually payable by them in respect of their holdings.

"2. He filed suits on these agreements, and the Subordinate Judge decreed his claim thereon.

"The Jághirdár petitioned the Collector for an order to enable him to obtain the assistance of Revenue officers in recovering these claims.

"3. The Collector considered that the agreement, on which the Jághirdár insisted was void under Section 24 of the Contract Act (IX of 1872), and that the Subordinate Judge's decision was therefore wrong.

"4. No doubt, under Bombay Act III of 1869, Section 8, the right of the Jághirdár to make such recoveries *as arrears of land-revenue with the assistance of Revenue officers* is strictly limited, in the case of each tenant, to the amount leviable by law as Local Fund cess in respect of that tenant's holding.

"The Act gives the special power and privilege, and defines the limits to their exercise. It would, therefore, be illegal for a Revenue officer to assist the Jághirdár in recovering more than that Act authorises by the special procedure of the Bombay Land Revenue Code (Sections 86 and 87 of Bombay Act V of 1879).

"5. Such contracts would not extend the powers of Revenue officers to give their assistance for recovery. The Jághirdár, therefore, could not enforce such contracts without recourse to the Civil Courts.

"6. But there is nothing in Section 8 of Bombay Act III of 1869, which makes it unlawful for any one to pay more or to contract to pay more than the law would oblige him to pay, or more than could be recovered by the special summary procedure there prescribed.

"8. If there were any room for doubt as to the lawfulness of the object, the only way that the question could be raised would be by an appeal made by the tenants themselves. But there is clearly nothing unlawful in an undertaking to pay money. Possibly a tenant might raise the question whether there was any consideration for such an agreement. The Court would then probably consider that the mere mention of the Local Fund cess as the nominal reason for the addition to the rent, would not materially distinguish the case from that of an ordinary agreement to pay so much rent in a lump sum without distinguishing or specifying the items. The contract might be successfully impugned of course, if undue influence, misrepresentation or coercion were shown. Such objection would have to be taken by the tenant in Court. But if the tenants have entered into the contract with their eyes open, there is nothing to prevent the plaintiff from enforcing the contract in a Civil Court, although the contract would, by no means, entitle him to recover from his tenants, as Local Fund cess, with the assistance of Revenue officers, more than he could recover under the Act (Bombay Act III of 1869, Section 8) without such contract." (G. R. No. 4013 of 3rd June 1889, R. D.)

PART II.

RULES UNDER THE LAND ACQUISITION ACT, 1870.*

The following Rules prescribed by His Excellency the Governor in Council under section 59 of the Land Acquisition Act X of 1870, together with the instructions laid down for the administration of the Act, are published for general information :—† (B. G. 1873, p.

Government revenue, &c., if remitted in compensation to be deducted from award.

1.‡ Whenever it shall appear to the Collector desirable that the Government revenue or haks of any kind shall be remitted in payment or part-payment of the compensation to be awarded for land taken under this Act, he shall estimate the value of such revenue or haks, and deduct it from the estimated compensation to be awarded to the owner of the land.

Principles for calculating compensation to be offered.

2. If the land has been surveyed and assessed to the land revenue under the provisions of Act I of 1865, or when it bears an assessment according to existing practice, the value of the Government claims on such land shall be calculated at not less than twenty-five times the survey assessment; but houses, trees, crops, wells and improvements shall be estimated separately on the best information available to the Collector.

When land unassessed.

3. When the land to be taken under this Act has not been so surveyed and assessed under Act I of 1865, or does not bear an assessment

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* Local Funds and Cantonment-Funds are not public revenues within the meaning of the proviso of section 6 of Act X of 1870. (G. R. 255 of 14th January 1882 and 1079 of 16th February 1882) Acts relating to the acquisition of lands for public purposes must be construed strictly in favor of the subject. (12 B. H. C. Reports, 250.)

† These rules are published as those actually in use. To give them validity under section 59 of the Act the sanction of the Governor General in Council would have been necessary.

‡ (*a*) Redemption of land tax is not permissible under the orders of the Government of India. (G. R. 1860, dated 29th February 1884, R. D.)

(*b*) When land is taken up under the Land Acquisition Act for a Municipality or Company, " such Municipality or Company should be held liable for the revenue, but might be allowed to compound for it." (G. R. 4390, dated 2nd June 1884, R. D.)

(*c*) Reduction of judi in cases of acquisition under the Act.

RESOLUTION.—The case seems to stand thus :—

An Inámdár was owner of the entire profits of the land taken up, except the judi.

If he received compensation equal to the capitalized entire profits, he was entitled to no reduction of the judi thereon.

If he received compensation equal to the capitalized profits less the judi thereon, he was entitled to a reduction equal to the judi thereon.

If he gave up the land without compensation he was no longer liable for the judi thereon, and was entitled to a reduction equal to the judi thereon.

In the 2nd and 3rd case Government would have a claim to receive the judi on the land or its capitalized value from the party to whom the land is transferred.

In any case Government should clearly not be mulcted in the portion of the assessment which they did not receive and which belonged to the inámdár.

2. The case of service lands is different. There the assessment is what Government allowed to the holder in return for service, and it reverts to Government when he relinquishes the land. (G. R. 4547, 6th June 1885, R. D.)

according to existing practice, the Collector shall proceed to assess it on the best information he can procure, and the value of the Government claims on such lands shall be calculated at not less than twenty-five times the assessment fixed by the Collector, with the approval of the Revenue Commissioner.

Compensation how to be recorded.

4. When making an award of compensation to be given under section 42 of Act X of 1870, the Collector or Court shall record separately the compensation to be granted under the first clause of section 24 of the Act, which concerns the market value of the land and the portion of compensation to be granted under the 2nd, 3rd, and 4th clauses of that section.

Procedure when temporary occupation is required.

5. The procedure required for a reference under section 15 shall be applicable to a reference under section 43.

Reference if dispute as to apportionment.

6. When the amount of compensation to be awarded under section 43 (for temporary occupation of land) has been fixed, and there is a dispute as to the division of the amount among the persons interested, the Collector shall refer such dispute to the Court for decision, and the procedure prescribed by section 39 shall be applicable to such reference.

Informalities in proceedings.

7. Any informality in the proceedings of the Collector or Court under this Act shall not vitiate the award, unless the interests of any party or parties are injuriously affected thereby.

Instructions for the Administration of the Land Acquisition Act X of 1870.

Collector cannot delegate his powers under the Act.

1. The first part of Act X of 1870 is concerned principally with definitions, among which the only one to which it is necessary to direct special notice is that of the expression "Collector." This includes "any officer specially appointed by the Local Government to perform the functions of a Collector under this Act," but no provision is made in the Act for the delegation by the Collector of any of his powers to a Deputy or Assistant Collector; no such delegation is lawful.

When land required for Guaranteed Railways.

2. Rules for taking up land for Guaranteed Railways were issued by the Government of India in their Circular No. 55 of 29th June 1861 as modified by No. 27 of 27th September 1869 (Appendix H). The applications for this land will be forwarded by the Railway Companies to the Consulting Engineer for Railways, who will, when necessary, submit them for the orders of Government.

When land required for State Railways.

3. The Rules for taking up land for State Railways are contained in Government of India's Circular No. 10, dated 25th August 1871 (Appendix K).* Land for this purpose will also be applied for through the Consulting Engineer for Railways, unless otherwise ordered.

Land required in other cases.

4. When land is required for public purposes in any other case, the officer requiring it should, in the first instance, consult the Collector of the disrict, and obtain from him the fullest possible information as to the probable cost of the land per acre or otherwise, together with the value of buildings, &c., situated on the property, and for which compensation will have to be paid. Upon the information thus obtained, an estimate should be framed by the said officer, and submitted through the proper channel for sanction. When sanction to an estimate, framed as above directed, has been obtained, the said officer should commit the matter to the Revenue officer, who will take the necessary preliminary action for the appropriation of the land under the Act, or for its acquisition by private negotiation, subject to the instructions which he may receive from the Revenue authorities to whom he is subordinate. (Notn. No. 1133, *B.G.G.*, 1879, Pt. I., p. 279.)

The sanction will be communicated by Government to the chief officer of the department through which the reference has been made, and also to the Commissioner, and Controller of Public Works Accounts, or the Accountant General, as the case may be; and the Government order will also state against what particular item of the budget the expenditure is to be charged.

Course when estimate sanctioned is likely to be exceeded.

5. When the estimate originally framed and sanctioned is likely, when the land comes to be acquired, to be materially exceeded, the Revenue officer shall refer the matter again to the officer concerned to ascertain whether the object sought cannot be otherwise secured, either by obtaining some other plot of land in lieu of that originally proposed for acquisition, or in some other manner. When such a reference is made, the said officer should, in personal communication with the Revenue officer, consider the case, and, if it is found impossible to obtain the land required without materially exceeding the original estimate, should submit a revised estimate for sanction. (Do. do.)

Application by Collector to be made to Government in the Revenue Department.

6. Whenever it is thought necessary or expedient that steps should be taken for the acquisition of the land under the Act, an application to that effect should be submitted, with the reasons for the same, (Do do.)

* This Circular has been superseded by Circular No. 21 of 12th October 1881. (*See* Appendix K.)

by the Collector, through the ordinary channel, to Government in the Revenue Department.*

Preliminary investigation under sections 4 and 5.

7. Sections 4 and 5 lay down certain rules, under which a preliminary investigation is to be made into the condition and circumstances of lands which the Local Government may consider likely to be needed for any public purpose. It is to be observed that the preliminary investigation provided for by these sections of the Act will not be, in all cases, necessary. In ordinary cases, the demarcation and measurement required by section 8 of the Act will answer all the purposes which the provisions of sections 4 and 5 are designed to serve under peculiar circumstances. Should any such circumstances exist, they should be reported to Government by the Collector, or head of the department for the use of which the land is required, with a view to the publication of a notification under section 4; and, upon such publication, the following Rules will be observed in carrying out the provisions of the sections under notice.

By whom to be conducted.

8 The conduct of the preliminary investigation will, unless otherwise specially ordered, fall into the hands of the chief local representative of the particular department or company for the use of which it is proposed to occupy the land. In the case of lands required for local or municipal purposes, the Collector of the district, or one of his Assistants or Deputies, is to be deemed the representative of the municipality or local fund committee.

Notification under section 4 of the Act: its form.

9. The officer entrusted with the preliminary investigation should, in the first instance, prepare a draft notification, in Form A., for issue under section 4 of the Act, and submit the same to Government through the Collector.

Issue of public notice.

10. After publication of the notification in the *Government Gazette*, due notice of the substance of such a notification will be publicly given by the Collector at convenient places in the locality, and the Collector must invariably apprize the officer entrusted with the preliminary investigation of the issue of the public notice prescribed by section 4. It is illegal for such officer to commence his investigation until he is certified of such issue of the notice.

Preparation of map and declaration.

11. After having been informed of the issue of the public notice from the Collector, the officer entrusted

No. B.G.G., Pt. I.

* When land has to be taken up for public purposes either by private arrangements or under the Land Acquisition Act, the Collector or other officer or department requiring it should invariably report the probable amount of compensation which will have to be paid for it and the source from which it is proposed to meet the charge. The draft notification to be published under the Act should be prepared in strict accordance, as far as possible, with the form of declaration given in Appendix B to the rules prescribed under the Act (G. R. No. 615, 24th January 1883, R. D.)

with the preliminary investigation will proceed to examine the land according to the provisions of section 4, and to prepare a map or plan of the land in accordance with prescribed rules, and make it over to the Collector, who shall prepare the draft declaration under section 6. He will take care to tender payment for all damage under section 5.

Investigation under section 5.

12. The investigation to be made by the Collector in cases referred to him under section 5 is a summary one. He must be guided by the result of a local inquiry, which he is at liberty to make either in person or by deputy. He will himself, however, be held responsible for the award made by him, and if the claim be for any sum exceeding Rs. 300, the enquiry should be conducted by an Assistant or Deputy Collector, but the award must be made by the Collector himself.

Procedure when no preliminary inestigation is necessary.

13. When no preliminary investigation is considered necessary under section 4, the Collector, on being applied to by the Consulting Engineer for Railways or other responsible executive officer, and on being furnished with the plan of the land required, and other requisite particulars, shall prepare the draft declaration for submission to Government. (Notn. No. 1133, *B. G. G.*, 1879, Pt. I., p. 279.)

Declaration what to contain.

14. Although the particular land to be acquired must be described in the declaration to be made under section 6, the law does not require that its precise boundaries or area should be exactly specified. The declaration should be in the form of Appendix B., and should be so generally worded that no impediment may afterwards arise from its terms to the appropriation of all the land that can possibly be required. In other respects the declaration should be as precise, and should contain as accurate a specification of the boundaries, as possible. The declaration will be issued by Government in the Revenue Department. (Notn. No. 1501, *B. G. G.*, 1879, Pt. I., p. 402.)

Issue of declaration.

15. When issuing the declaration, Government will at the same time direct the Collector or one of his Assistants to take order for the acquisition of the land. The Collector, in making his report, should mention the name of the Assistant he wishes to take order under section 7. (Notn. No. 1133, *B. G. G.*, 1879, Pt. I., p. 279.)

Demarcation and departmental map and preparation of surveyor's plans, when land is required for other than the Revenue Department.

16. After the issue of the declaration, the officer who was entrusted with the preliminary investigation, or, in case no such investigation shall have been held, some officer on behalf of the department or company for which the land is required, such department, not being the Revenue Department, shall, if it has not already been done, mark out the boundaries of the land, and furnish the Collector with a plan or map of it, prepared according to rule. The

Collector will then proceed to have the plan carefully tested by a competent surveyor, and, in case of any error or discrepancy being apparent, shall correct it.

Demarcation and departmental map, and preparation of surveyor's plans when land is for the Revenue Department.

17. If the land be required for the Revenue Department, the necessary demarcation and the preparation of the map will be carried out by an officer deputed for the purpose by the Collector.

Surveyor's work to be tested, and rates of rent, &c., to be ascertained.

18. When the Collector or other officer vested with the necessary powers under section 3 shall have satisfied himself that the plan is correct, he will proceed to ascertain the rates of rent paid, and will record them, and will appraise the value of the land, houses, wells, trees, or crops, or improvements upon it. The Collector may delegate to an Assistant or Deputy Collector the conduct of the inquiry contemplated in this paragraph.

Issue of notices under section 9, and their form.

19. As soon as the operations prescribed by the last preceding instruction have been completed, the notices described in section 9 should be issued and subsequent proceedings taken in accordance with the law. Forms of notice will be found in Appendices C and D. A form of requisition under section 10 is given in Appendix E.

Additional compensation.

20. The Collector's attention is drawn to the 4th rule of the rules having the force of law, published in *Government Gazette* dated 13th March 1873, which directs the Court to make a separate finding, under the first head of section 24, for the calculation of the additional compensation.

*Awards to be made with due caution.

21. An award made by a Collector cannot, if it is made in accordance with the provisions of the law, be subsequently amended by any authority. Officers should, therefore, be most careful before making an award, to take all precautions to avoid error or oversight.

Taking possession under section 16.

22. Section 16 empowers the Collector, or other officer vested under section 3, to take possession of the land as soon as he has made an award or a reference to the Court, and the Act empowers no one else to do so. It is to be distinctly understood that occupation of such land by any other officer or person, without written authority from the Collector, is illegal, and that the limitation prescribed by the latter clause of section 58 will not apply to any suit that may be instituted against

*Memo. by L. R. :—A person who, when land is being acquired under Act X of 1870, says that the land is his, but puts in no claim for compensation for it, surrenders any right he may have in the land and is no longer 'a person making a claim in respect thereof.' The Collector without deciding upon the merits of such person's alleged title should, I think, proceed with the inquiry as if that person had not appeared at all. (G. R. No. 6971, 30th September 1886, R. D.)

the offender. When the land has been taken up, possession should be given by the Collector to an officer nominated, in writing, to receive it by the Railway Company, Executive Engineer, or other authority on whose behalf the application was originally made, and to no other person.

Occupation under section 17.

23. In cases of urgency, section 17 allows occupation by the Collector, under special orders from the Local Government, before award or reference. But the Collector must offer compensation for crops and trees on such land. It is only necessary, in regard to this section, to notice that it applies to "waste and arable" land only, and not to land occupied by roads, tanks, buildings, &c.

Nomination of assessor under section 19.

24. Sections 18 to 36 regulate the procedure to be adopted by the Court in the investigation of cases referred by the Collector. The only sections among them, other than sections 24 and 25 already referred to, which concern the Collector, are sections 18, 19 and 35, and their provisions call for no special remark, except that the assessor to be nominated by the Collector under section 19 should be, as a rule, an officer of Government specially selected for that purpose.

Collector is responsible for disbursements under sections 40 to 42.

25. The rules for payment are contained in sections 40 to 42. The Collector is personally responsible for the disbursement of the amount as soon as it falls due, under the provisions of these sections. If the amount to be disbursed is likely to exceed the funds at the Collector's command, he should take timely steps for obtaining, in accordance with departmental instructions, the necessary supply of money before the date on which the payment becomes due; but payment must, in any case, be made when due.*

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* Memo. by L. R:—"Section 40 of Act X of 1870 directs that 'payments of the compensation shall be made by the Collector according to the award to the persons named therein.' There is no provision for the payment of the money into Court and I think it would be useless to ask the Court to take charge of it.

"2. If the persons entitled to compensation abstain from applying to the Collector for it till the period of limitation[1] expires, their claim to it will be extinguished, but until the expiry of that period they can claim it at any time. It is not competent to the Collector or to Government by notice or otherwise to extinguish their claim before the expiry of the period of limitation.

[1] i. e. one year from the date of determining the amount of the compensation (see Act XV of 1877, Schedule II, Article 17).

* * *

The Collector need not trouble to issue any further notice to the parties, and as a rule it is unnecessary that he should issue a notice at all. (G. R. No. 227 of 10th January 1884, R. D.)

Letter from Accountant General.—The orders of the Government of India contained in G. R. R. D. No. 5518, dated 4th August 1886, require that compensation should be paid into the Government Treasury as revenue deposits after a year from the award, and be then treated in the same manner as other revenue deposits, being credited to Government only if unclaimed with[illegible] three years. Even after being credited to Government pay[illegible] may be made with the permission of the Accountant [illegible] (C. A. Code, ch. XIV, para. 12). Resolution.—T[illegible] of the Government of India may be carried [illegible] No. 2753, 4th May 1887, R. D.)

Procedure when payment is to be made for public or other service lands.

26. When the lands have been held heretofore free of rent in cash or kind, or on a quit-rent, on condition of the performance of some public service, the Collector should, if necessary, refer the matter to the Revenue Commissioner, in view to obtain instructions for the due representation, before the Court making the award, of the Government interest involved in the apportionment of the compensation in respect to its lien, for the purposes of the public service.

Disbursement of costs under section 8; and

27. The Collector must disburse all costs of measurement under section 8. Costs when incurred under sections 4 and 5 will be disbursed by the officer entrusted with the preliminary investigation.

abatement of revenue.

28. The Act does not authorise the Collector, whether the award shall have been made by himself or by the Court, to make any portion of the payment in the form of an abatement of the Government revenue; but by rules passed by Government, and having the force of law, provision has been made to that effect, and it will be the duty of the Collector, before proceeding to determine the amount of compensation to be allowed, to decide, after careful consideration, whether any portion of the payment should or should not be made in the form of such abatement, and to pay strict attention to those rules which will be found in *Government Gazette* dated 13th March 1873. He will be guided in his decision by the principle laid down in the next succeeding paragraph, and, in cases referred by him to the Civil Court for adjudication, he shall communicate his decision on this point to the Court, which is bound, under the rules, to give effect to it.

Adjustment of value of revenue abated when land is taken up for Government.

29. When the land may be acquired for Government, the account to which the compensation money may be debited should also be charged with the value of the Government revenue abated, and such amount should be credited *per contra* under the head of land revenue.

Adjustment of value of revenue abated when land is taken up for municipalities and companies.

30. When land is acquired for municipalities and companies, they will be required, in cases when payment of compensation may have been made, partly or wholly by an abatement of revenue, to pay to Government, in addition to the cash compensation awarded to persons interested in the land, the value of the abatement of Government revenue made for such land as recorded in the award calculated at not less than 25 years' purchase.

Additional compensation under section 42.

31. The attention of Collectors is called to the provisions of section 42, by which an additional compensation of fifteen per cent. on the *value*, not the total award, is to be paid to [redacted] of the land occupied.

Temporary occupation of land under sections 43 to 45.

32. Sections 43 to 45 prescribe the procedure to be followed in procuring temporary occupation of land. All the procedure required by paragraph 13 of the instructions will apply. Generally, also, the same procedure will apply as in cases of land taken permanently.

Acquisition of land for companies under sections 46 to 50.

33. Sections 46 to 50, making special provision for the terms on which Government will take up lands for the use of companies, need no particular comment. The officer of any company for whom Government may undertake to acquire land will, when authorised under section 4, proceed according to the instructions already given. Under section 50, the agreement must appear in the *Gazette of India* as well as in the Local Official *Gazette*.

Awards under section 54 made on summary inquiry.

34. The award of the Collector under section 54 must be made, as under section 5, on a summary inquiry, but a record should be kept :—the Collector's order is final.

Tabular returns.

35. When the case has been appealed, it will be submitted with Statement F., and will show the award as finally determined. And as soon as the time for an appeal has passed, the Collector shall forward to Government the information contained in Appendix G.

Disbursement* how to be made, and bills to be submitted.

36. Whenever a special officer is deputed for taking up lands for public purposes, as for a railway, canal, or road, he will be supplied with funds by the Controller of Public Works Accounts, by means of credit orders, and he will render to that officer monthly accounts of expenditure, as prescribed for a civil disbursing officer. In all other cases, the Collector will make the necessary disbursement from his general treasury balance, and will enter the expenditure, in his cash account, under the head to which it is properly debitable, for adjustment by the Accountant General.

Alienations to be noted in General Register (A).

37. Alienations of land under this Act should be carefully noted in the village maps and registers.

No registration of receipts for money paid under awards necessary.

38. Receipts for money paid under awards under the Land Acquisition Act, 1870, do not need to be registered † Notn. No. 3025, *B. G. G.*, 1889, Pt. I., p. 297.

* For procedure to be observed in the payment of compensation for land taken up under the Land Acquisition Act *see* note at end of this part, *infra* p. 101.

† Receipts for money paid for land acquired by *private agreement* are compulsorily registrable when the amount of consideration is one hundred rupees or upwards. In such cases clause (*c*) of section 17 of Act III of 1877 is applicable because the receipts are not mere receipts for money. They are the only written evidence of the agreement and they show that the money is received on account of the assignment of the payees'

39. Although the Collector is vested with full power under the Act, he is to act under the general instructions of the Commissioner.

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right, title and interest in the property concerned. (G. R. 933, dated 31st January 1885, R. D.). The fees for registration of receipts in the case of lands purchased by agreement for forests should be paid out of the sum sanctioned by Government for expenditure on the taking up of such lands. (G. R. 5175, dated 24th June 1885, R.D.)

(Memo. by Acting L. R.)—"2. In all cases under the Land Acquisition Act, 1870, an award must be drawn up.

"If the amount of compensation is settled by the agreement of the persons interested, the *Collector must* make the award under his hand for the same.

"The award must then be filed in the Collector's office (section 14 of X of 1870), but no stamp is chargeable on the original, and no fee is chargeable on a copy thereof supplied to the parties claiming under it (section 57 of X of 1870), and registration is unnecessary (section 17 (*i*) of III of 1877).

"Such award is *conclusive evidence* not only of the value of the land and the amount of compensation allowed for the same (section 14 of X of 1870), but also of any *apportionment* agreed to by the persons interested (section 37). If the parties interested do not agree, either as to the amount or apportionment, a reference to the District Court must follow, and the award of that, or of the Appellate, Court is then such conclusive evidence.

"3. It follows that any other evidence would be inconclusive and secondary on these points.

"4. But the title to the land passes not by the award, but by virtue of proceedings taken in accordance with the Act. If all the preliminaries required have been observed, the land vests absolutely in Government (section 16 of X of 1870),

(*a*) on the making of an award on agreement, or

(*b*) on reference to the Court in case of disagreement, or

(*c*) within fifteen days of the notice in cases of urgency, if the land be *waste* or *arable*, even prior to award or reference, if the Local Government so direct (section 17),

and the Collector is then entitled to take possession (section 16), unless under section 41 he allows any occupants thereof to remain in possession, until it is required.

"5. There is no necessity for registration of any receipt on payment. The payment of compensation is not consideration on account of the creation, declaration, assignment, limitation or extinction of a right, title or interest. The payee's right, title and interest are extinguished by the operation of the law, and the payment is not consideration for the extinction of title, but compensation fixed by an award for losses of various kinds sustained in consequence of the compulsory acquisition. The title is extinguished or assigned not because of the payment received, but because of the exercise of statutory powers.

"6. A receipt, moreover, if taken, would without registration be evidence admissible to prove the satisfaction of all claims between the parties, and the actual payment of money is a fact always susceptible of proof by oral evidence without production of a written or registered acknowledgment. (G. R. No. 9767, 24th December 1889, R. D.)

I. L. R. 4 B. 235.
Do. 5 B. 181.
Do. 2 B. 489.
7 M. H. C. R. 1.

APPENDIX A.

[See paragraph 9 of Instructions.]

Form of Declaration under section 4, Act X of 1870.

Whereas it appears to the Governor of Bombay in Council that land is likely to be required to be taken by Government at the public expense for a public purpose, *viz.*, for , in the village of , Táluka , Zilla ; it is hereby declared that for the above purpose a piece of land measuring, more or less, acres, gunthas, of standard measurement, bounded on the (*here specify the boundaries*), is likely to be required within the aforesaid village of .

This declaration is made, under the provisions of section 4 of Act X of 1870, to all whom it may concern, who are hereby warned not to obstruct or interfere with persons employed on the land.

APPENDIX B.

[See paragraphs 11 and 14 of Instructions.]

Form of Declaration under section 6, Act X of 1870.

Whereas it appears to the Governor of Bombay in Council that land is required to be taken by Government at the public expense for a public purpose, *viz.*, for , in the village of , Táluka , Zilla ; it is hereby declared that for the above purpose a piece of land measuring, more or less, acres, gunthas, bounded on the (*here specify the boundaries*), is required within the aforesaid village of .

This declaration is made, under the provisions of section 6, Act X of 1870, to all whom it may concern, who are hereby warned not to obstruct or interfere with persons employed on the land.

APPENDIX C.

[See paragraph 19 of Instructions.]

Form of Notice to be published under paragraphs 1 and 2, section 9, Act X of 1870, for land to be taken up.

Notice is hereby given that acres, gunthas, more or less, of land situate in or near the village of , bounded as below, and recently marked out and measured, is about to be taken by Government for a (*here specify the purpose*) under Act X of 1870, in accordance with a declaration No. , dated , published in the *Government Gazette* of the . All persons interested in this land are hereby called upon to appear personally or by agent on the (*enter a date not less than fifteen days from the date of the publication of the notice*) at the office of at , to state the nature of their interest in the land, and the amount and particulars of their claims to compensation for the same.

Boundaries.

North.	East.
South.	West.

Collector.

APPENDIX D.

[See paragraph 19 of Instructions.]

Form of Notice to be issued under paragraphs 3 and 4, section 9, Act X of 1870, to occupiers of the land to be taken up, and other persons known or believed to be interested in it or to be entitled to act for persons so interested.

Notice is hereby given that acres, gunthas, more or less, of land situate in or near the village of , bounded as below, and recently marked out and measured, is about to be taken by Government for a (*here specify the purpose*) under Act X of 1870, in accordance with a declaration, No. , dated , published in the *Government Gazette* of the . If you have any interest in this land or are entitled to act for persons so interested, you are hereby called upon to appear personally or by agent on the (*enter a date not less than fifteen days from the date of the publication of the notice*) at the office of , at , to state the nature of such interest in the land, and the amount and particulars of any claim you may wish to prefer for the same.

Boundaries.

North.	East.
South.	West.

Collector.

APPENDIX E.

[See paragraph 19 of Instructions.]

Form of Requisition under section 10, Act X of 1870, to be added when necessary to Notice in Appendix D.

You are hereby required to furnish the undersigned with a statement containing, so far as may be practicable, the name of every person possessing any interest in the land, or any part thereof, referred to in the notice of served on you, as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Collector.

APPENDIX F.

[See paragraph 35 of Instructions.]

Statement of Proceedings on Appeal.

1	2	3	4	5	6	7
Date of Appeal.	Date of decision of Appellate Court.	Amount finally awarded.	Amount of additional compensation.	Total (Columns 3 & 4).	Date from which abatement of revenue, if any, takes place.	REMARKS.

Collector.

APPENDIX G.

[See paragraph 35 of Instructions.]

Particulars of compensation awarded by under section , Act X of 1870, to all the persons interested in the plot of land described below, situated in the village of , Táluka . The said plot is bounded as shown in the plan hereunto annexed, which has been prepared under section , Act X of 1870, and measures acres, roods, poles, chains.

1	2	3	4	5	6	7	8	9	10	11
Names of persons in whose favour the award has been made.	How interested in the land.	GROSS COMPENSATION AWARDED.			Additional compensation awarded under Section 42, payable in cash.	Amount of interest awarded under Section 42.	Costs decreed to Government.	Costs decreed against Government.	Net amount to be disbursed in cost (Columns 4, 6, 7, *minus* Column 8, or *plus* Column 9.)	REMARKS
		Value of abatement of Government revenue.	Amount payable in cash.	Total.						

NOTE.—The Collector will report on what grounds he determined whether a portion of compensation should or should not be paid in the form of abatement of Government revenue.

APPENDIX H.

[See paragraph 2 of Special Instructions.]

Rules for taking up Land for Railway purposes (by the Government of India), issued 29th June 1861.

1. Land required for Railway purposes may be divided into 4 classes—A., B., C., and D. *First,* Class A.—Land which a Railway Company receives free of charge, under the contract with the Government for permanent occupation. *Second,* Class B.—Land also provided free of cost, but only for temporary occupation. *Third,* Class C.—Land which the Railway Company has to provide at its own cost. *Fourth,* Class D.—Land which does not come directly into the possession of the Railway Company at all.

2. Class A. will comprise the land acquired for the permanent works of a Railway, including the road with its bridges, &c., and all stations, workshops, permanent storehouses, and the like, necessary for the line when opened, and which under the contracts is to be provided by Government, free of cost, to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent that it will only cease when their contract is terminated or surrendered, and the whole lapses to Government. It is all provided free of charge.

3. Class B. will contain land essential for the execution of the permanent works of a Railway, but not required after the completion of the line in part or in whole. It also is provided free of charge—such as land for spoil banks, extra excavation to make banks, for river diversion, and for the storage of Railway materials held in stock by the Railway Company pending the construction of the line or their despatch to the works;* the occupation of this class of land will be temporary. On its restoration to the Government, the proper time for which will be settled in each case between the Railway Officers and the Consulting Engineer, it will be for the Revenue Officers to dispose of it to the best advantage of Government.

4. Class C. will contain the land which a Railway Company has to provide at its own cost. This is the land which is required for the provision or preparation of materials; for purposes contingent on the actual execution for the works on the line, or for other miscellaneous objects, which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the Capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials, and the means of facilitating the execution of all works, are to be at the cost of the Railway Company.† It is proper to bear in mind, in fixing the rent, that this land will in part deteriorate by the use to which it is put and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land, in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined, as under Class B., by the Railway Officers and Consulting Engineer.

5. Class D. will contain that land which, being required in consequence of the works of a Railway, still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads—either new roads leading to Railway stations, or to permanent storeyards or workshops, detached from the main works, diversions, or changes or old roads made necessary by Railway works.

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* This last sort of land is allowed free under the Right Honourable the Secretary of State's letter No. 25 of 30th November 1858.

† The following words were also in the original rules:—

"In this class, therefore, will fall all land for brick-making, quarrying, ballast[1] for houses, for persons employed on the work, &c., so also land for houses for Engine drivers, and the like on the line when opened, and for other similar purposes, will come under Class C."

But H. M.'s Secretary of State for India thought that any particularization in the rule might raise questions as to the power of Government to alter or vary the terms of the contract (a power which the Government has no intention of claiming). It has, therefore, been thought best to give these words in a note, simply for the guidance of the officers of Government and parties interested, as to the construction which Government puts on the contract in regard to certain points of frequent practical application.

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[1] In the original rules, the words "for roads to works in progress" here found place. They have now been struck out as calculated to mislead. It is clear a road may be required from a site used temporarily for storage of materials also itself in Class B. This would carry the road itself into the same class. A road from brickfield or quarry would be in the same category as the brickfield or quarry, viz., Class C. Whereas a road from a detached, but permanent, store-yard, although leading "to works in progress," would not the less come under Class D., should such road still be necessary after the completion of those particular works. Thus, *generally*, the circumstances of the tenure of land *at the end of the road furthest from the railway* will decide the class into which the road itself shall be placed.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account or otherwise than as above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the Railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in Class A., which might be held by a Railway Company, would certainly be, in such an event, a great embarrassment.

7. Houses, trees, tanks, or other property on land which is not provided free of charge, and for which special payment or compensation is necessary, will be paid for at once by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government, will be disposed of by the Revenue Officers to the best advantage.

8. All land required for a line of Railway will be applied for in continuous portions; the plans will be drawn to a scale of 150 feet to the inch, and the measurement and areas will be recorded in accordance with the fiscal divisions of villages, estates, or mauzas, parganas, and zillas, in a schedule, of which a form is annexed, showing in detail the several classes to which the land belongs.

9. The several classes of lands will be coloured pink, yellow, purple and green, respectively, in the plans, and the exact purpose to which each parcel of land is to be devoted will be noticed in the schedule.

10. Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearing as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

11. The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineer to Government, the application will be forwarded to, and dealt with as may be necessary by, the Revenue authorities under the orders of the Local Government. The Revenue Officers are to be held strictly responsible for the regular adjustment, by Railway Companies, of all charges on account of land to be determined in the manner above explained.

12. A complete set of land plans should be recorded in the chief Engineer's Office of each Railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which, in turn, will supply Collectors of districts with transcripts of parts included in their respective zillas. When it may be found expedient, in order to expedite the making over of the land, to employ a special Land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the Land Commissioner.

13. The Consulting Engineer to Government and local Revenue authorities will, respectively, be held responsible for the punctual fulfilment of the foregoing orders in the several departments, and for the careful record of plans in their respective offices.

14. All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the Local Government. It will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

15. It will be necessary for the Local Government to see that a correct register and record of title of all Railway lands is maintained, for the whole of such lands will one day revert to the Crown. Also, that all rents or payments for clearances, &c., chargeable on behalf of Government against the Railway Company are duly realized.

16. It is essential that there should be for each Railway *one* set of plans in a regular sequence to show all the land, and that the plans of each Railway Company's estate after they have once been prepared, should constantly be corrected, and always be maintained complete.

CIRCULAR NO. VIII RAILWAY, GOVERNMENT OF INDIA, 22ND APRIL 1890.

RESOLUTION.—In a recent case it was found that land had been taken up by the Civil authorities for a Company's railway without the correctness of the plans and schedules having been first attested by the responsible Consulting Engineer, as required in paragraph 11 of the Circular herein read, under a misapprehension that the rules contained in this Circular were intended to apply to Guaranteed Railways only.

2. As any departure from the authorised procedure for the acquisition of land for Railway Companies may cause serious inconvenience and lead to complications, the Government of India desires to invite particular attention to the Circular which is now republished for general information; and, in order to remove any doubts on the subject, is pleased to rule that the provisions of the Circular shall apply to all railways constructed by Companies, whether Guaranteed, Assisted or Private, for which the land is acquired under the orders of Government.

3. The Government of India desires that the land plans should be prepared on a scale of 400 feet to the inch, or, where a larger scale is required, 100 feet to the inch, instead of on the scale of 150 feet to the inch, as contemplated in paragraph 8 of the Circular now republished and also prescribed in Public Works Department Circular No. XV Railway, dated 8th June 1882, which is hereby cancelled.

4. It will be incumbent on Consulting Engineers to endeavour to avoid the emplacement of the railway upon land the acquisition of which will entail either unnecessary expenditure on Government, or annoyance to the owners, if the object sought can be equally well attained by a slight alteration of the alignment, or in some other manner. The Consulting Engineers to Government and the local Revenue authorities will be held responsible that, in taking up land, the fullest consideration is given both to the convenience of the proprietors and the interests of Government. (Circulated by G. R. 1297 of 29th May 1890, P. W. D., Railway).

FORM OF SCHEDULE.

Plan. Sheet No._____
Railway_____
District_____

Schedule of land required for the use of the Railway in—
Village,_____
Pargana_____
District_____

Number on Plan.	Purpose for which required.	PAYABLE BY GOVERNMENT.									PAYABLE BY RAILWAY COMPANY.		
		A. (*Pink.*) Land for permanent occupation by Railway Company.			B. (*Yellow.*) Land for temporary occupation, by Railway Company.			D. (*Green.*) Land to be occupied by Government permanently.			C. (*Purple.*) Land for occupation by Railway Company, permanently or temporarily.		
		A.	R.	P.	A.	R.	P.	A.	R.	P.	A.	R.	P.

Chief Engineer,————*Railway.*

Deputy Consulting Engineer to Government.

Extracts from Circular No. 27 of 23rd September 1869.

PUBLIC WORKS DEPARTMENT.

(RAILWAY.)

(*Modifying the Rules issued in Circular No. 55 of 29th June* 1861.)

RENT FOR CLASS C. LANDS.

1. The Government of Bombay represents that the rules laid down by the Government of India, as to the mode in which the rents for C. Lands should be calculated, will, if acted upon, lead to some loss of Government money, and recommends that rent should not, in all cases, be determined by the same rule.

2. The Bombay Government is of opinion that, for Government land leased for house building, a fixed rent, irrespective of the classification of the soil and district, or locality, should be charged, and that, where money has been paid for the surrender of a lease, 5 per cent. on the amount of compensation should be added to the rent.

3. For land taken up for houses, from private owners, 5 per cent. per annum on the purchase-money is considered by the Bombay Government to be a fair arrangement.

4. For land required for ballast pits, quarries, &c., the Government of Bombay thinks that the Company should be called upon to pay the full amount spent for the acquisition of the property, *plus* a nominal yearly rent during occupation, the proceeds from the sale of the land, when surrendered, being credited to the Company. For Government land, a yearly rent should be charged to cover deterioration, in addition to the cost of resumption, if any. The Chief Commissioner of Oudh also points out that any possible deterioration of the C. Lands, by reason of the purposes to which they may be put, does not appear to have been provided for in the rules last issued. This was referred to in the Circular Orders of 1861, on the subject of Railway lands, and was not provided for in the last rules through inadvertence.

5. The references may be met by an additional rule, and the following rules should accordingly be promulgated in supersession of those issued with Circular No. 2 R. of 1869:—

I.—The annual rent on lands in Class C. occupied by a guaranteed Railway Company, shall be fixed at 5 per cent. on the outlay incurred by Government in

taking up the land *plus* any revenue or rent payable to Government in respect of the said land.

II.—But in the case of land already belonging to, and in the occupation of the Government, the rent shall be fixed at 5 per cent. on the value of the land as estimated by the Collector.

III.—In the event of the land being required for purposes through which its letting value will be diminished, the Railway Company, on relinquishing it, shall pay, in addition to any rent paid during the occupation of the land under the previous rules, the estimated difference between the actual value of the land when relinquished and the value that the land would have had if the rent remained at the amount that was paid during the occupancy of the Company.

IV.—When land presented in free gift by a private individual for the purposes of a Railway is made over to a guaranteed Railway Company in Class C., no rent shall be charged by Government beyond the jama or revenue previously paid to Government for the land.

6. With reference to Rule III., it is observed that the real value of the land to the Government, before it was handed over to the Company, would be properly estimated on the basis of the rent charged for it. But when land has been actually paid for by the Company already, as in Bombay, no re-opening of the old transaction should take place, and the adjustment can be made when any land is given up.

7. Compensation paid for surrender of a lease, or any other charge, should be considered in fixing the rent. If the land is not in the occupation of the Government, and cannot be transferred to the Company without charge of any sort, it comes under Rule I.

8. It is optional to the Government of Bombay to fix the rent under Rule II at Rs. 5 per acre for agricultural land occupied by houses of the Company's staff, or at any other amount it may deem desirable.

APPENDIX K.

Revised Rules prescribed by the Government of India (Circular No. 7R. of 14th May 1884) for the acquisition of land for State Railways.

(RAILWAY.)

RULES FOR THE ACQUISITION OF LAND FOR STATE RAILWAYS.

I.—The general course of procedure laid down in the Public Works Code, Chapter XV paragraph 92, is to be followed on State Railways.

II.—Railway officers shall not obtain possession of land, whether by purchase, lease, or on simple toleration, except through the proper Revenue Authorities.

III.—Engineers in preparing land plans for submission will divide their applications under two heads, *viz* :—

(*a*) *Land required permanently or land necessary for the railway when it is opened for public traffic and when the works of construction are finished.*—Such lands are the sites of bridges, embankments, cuttings, fences, and other works, the cess or berm introduced for the sake of safety between the limit of the works and the adjacent spoil bank, bazár, or side cutting; roads permanently required, such as those immediately in the neighbourhood of stations, over-bridges, under-bridges, or level crossings on the railway; land or water required for the water-supply; land wanted for the preparation and reception of such materials as are used in maintenance, as ballast pits; land for the permanent diversion of water-courses, all space permanently required at the stations, whether for traffic, storage, workshops, dwellings, or recreation, and also, as a general rule, land required for side cuttings and spoil banks.

(*b*) *Land required temporarily or land necessary to be taken up, but not permanently wanted.*—Such land will be for side cuttings and spoil banks, for roads, for access to works while in progress, but which will subsequently be abandoned; for the preparation and reception of materials used in constructing the railway, as brick fields, quarries, ballast pits, or the temporary diversions of streams and highways. The sites of such dwellings as will be occupied only during construction will also come in this class.

IV.—The land to be taken up permanently for the through line of railway will be, in the first instance, sufficient for a double line, so as to allow of a cart road to exist parallel to the railway *inside* the fence. This road will be useful not only during construction for service purposes, but afterwards for access to the stations, for maintenance purposes, and for stacking materials.

V.—The enclosed sections, *which are not intended to be used as a type for fencing, but merely as an illustration showing the amount of land to be taken up*, show the widths to be allowed for different purposes, and the relative position of the road, fence, and ditch with reference to the railway. The boundary of the railway land permanently acquired is in every case to be considered as the outside edge of the ditch. Beyond the ditch a clear space or berm of not less than 6 feet must be left free from the spoil bank or side-cutting nearest to the railway, the cutting or bank being sloped off at an angle of not less than 2 to 1 to prevent any encroachment on this berm from the effects of weather. It will be seen from the section that the width of land to be permanently acquired for a line on the 5 feet 6 inch gauge will be for embankments 70 feet, for cuttings 76 feet, in addition to the width required in each case for the bases of the slopes. For a line on the metre gauge the widths will be embankments 64 feet, for cuttings 70 feet, in addition to the slopes.

VI.—Land for side cuttings and spoil banks will, as a rule, be permanently taken up by Government, and subsequently disposed of when no longer required. Estimates will provide and be sanctioned for the full cost of purchase, and should also exhibit the sum which it is estimated may be realized by the ultimate sale of the land.

Embankments under 3 feet in height will only require side cutting on one side of the railway. Slopes of side cutting will be generally 2 to 1 all round, but care must be taken to provide for exceptional cases when a flatter slope may be needed. Similarly, the contents of cuttings under 3 feet high will be laid to spoil on one side only. Side cuttings should not be too deep: a depth of 6 feet may be estimated for in calculating the width of land required for side cuttings. They should be formed into well defined tanks of moderate length; and should not, as a rule, be connected with each other or with adjacent watercourses. Valuable land should not be taken up for side cuttings or for temporary purposes. A sufficient watercourse should be provided at right angles to the centre line of railway for each culvert or bridge, and on either side of this watercourse land will be left clear of the side cuttings sufficient to prevent the water from the river running into the side cuttings. The precaution of leaving land uncut in this manner is necessary to prevent the formation of a dangerous stream parallel to the railway.

VII.—In the neighbourhood of towns or other places where land is above the ordinary value, the width of land to be taken for slopes, fence, &c., must be specially considered to secure economy.

VIII.—All land will be applied for in continuous portions and shown when practicable mile by mile or village by village, on each sheet. The plans will be drawn to a scale of 150 feet to an inch; the centre line of railway will be shown divided into chains of 100 feet, and all dimensions will be figured in feet. The name of each zilla, pargana, and mouzah will be shown on each sheet. On curves the tangential point on the centre line will be marked and the radius of curvature given. The areas in acres, roods, and poles will be recorded in accordance with fiscal divisions in a schedule, (*form the same as that issued with Circular No. 10 Railway of 1871*), showing in detail the class to which the land belongs, and the purpose to which it is to be devoted. Land required *permanently* will be colored *pink;* land required for temporary occupation will be colored *yellow;* although, as pointed out in Rule VI, it will as a rule be acquired by Government permanently.

IX.—Detached portions of land should be referred to some fixed point on one of the main sheets with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land. A corresponding entry should be made on the main sheet to draw attention to the detached plot.

X.—As a general rule, three complete sets of land plans and schedules will suffice for record, *viz.*, one for the Engineer in charge of the railway, one for the local Government or Administration, and one for the Revenue authorities; but should more be required, they will be supplied by the Railway Engineers.

XI.—The general correctness of the plans and schedules submitted by the Railway Engineer in charge being attested by the Engineer-in-Chief or Manager of the State Railway, the application will be forwarded to the Revenue authorities, and will be dealt with by them under the orders of the local Government or Administration.

XII.—The land plans and schedules will be rectified from time to time as changes occur, and local Governments will see that a correct register of all railway lands is maintained.

XIII.—When land is no longer required for the railway, it will be retransferred to the Revenue authorities and disposed of by them. All contemplated changes in the land occupied by a railway should be reported to the local Government; and it will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records and for carrying out all further requisite proceedings.

XIV.—In Native States all land will be obtained through the Political Agent, and the distinction of temporary and permanent need not be observed; but this will not make it the

less incumbent on the officials concerned to see that all land not permanently required for the purposes of the railway is restored when no longer wanted, and to keep as complete records of the land retained for railway purposes in Native States as in British territory. Such plans and schedules as the Political Agent may require will be supplied by the Railway Engineers.

FORM OF SCHEDULE REFERRED TO IN RULE VIII.

Plan No._____

District_____

*Schedule of land taken for the use of the Railway in Zilla*____

*Pargana*____

Mouza

No. of Plan.	Purpose for which required.	CLASS A. (COLOURED PINK). Occupation, permanent. Land for the regular works of the Railway, including land for high roads and rivers, &c., &c.			CLASS B. (COLOURED YELLOW). Occupation, temporary. Land for excavations, spoil, and for contingencies of construction, for dwelling-houses, &c., &c.		
		Acres.	r.	p.	Acres.	r.	p.
	Total ...						

Superintending Engineer.

Consulting Engineer to Government.

APPENDIX L.

G. R. No. 206.

REVENUE DEPARTMENT.

Bombay Castle, 13th January 1879.

The following letter from the officiating Secretary to the Government of India, Home Department, Public, No. 2—27, dated 4th instant, is published for general information :—

"A case has recently been brought to the notice of the Government of India, in which the Civil authorities had proposed to cut a railway embankment with the object of letting off flood waters, the overflow of which threatened to cause much damage and loss. It seems desirable that district officers should be instructed not to order the destruction of any railway embankment or bridge, or other large work, whether it be the property of the State or of a private company, without first taking the advice of some responsible professional officer. As a rule, the engineering authorities charged with the control of the work concerned should be consulted.

" 2. I am accordingly directed to request that, with the permission of His Excellency the Governor in Council, you will be good enough to cause all Civil officers to be instructed in the sense of these remarks. In any case of difference of opinion respecting the property of the State, the point at issue should, if time permit, be promptly referred to the Government of India for decision."

Government Resolutions on various matters connected with Act X of 1870.

Act inapplicable except to acquisition for public purpose.

"Government in their Resolution No. 2337* of 12th June 1869 held that 'the declaration required by the Act could not properly be made with reference to any lands which it is intended to re-convey to individual persons for the erection of buildings for private occupation, as the proposed use does not come within the definition of a public purpose.' They further said: 'the notification should be limited to such lands as may be required for the roads, public buildings and public walks of the proposed new town and the intermediate sites must be left to the disposal of the present owners.'

"2. These same orders, which were quite in accordance with the intention of the legislature, apply equally to the present Act X of 1870. Subsequent references made by Government to the Governments of Bengal and Madras elicited the fact that in those Presidencies also the term 'public purpose' was strictly construed." (G. R. No. 8202 of 17th October 1884, R. D.)

Notification under Section 4.

There is no question that the notification under section 4 of Act X of 1870 may describe the locality in which land is likely to be needed in the most general terms, but if it is described by enumeration of villages, it seems advisable that the list of villages should be complete in order that difficulty may not arise in case of a prosecution under section 52 or even on action being taken under section 4, because if certain villages are named, it will be inferred by the Courts that the notification does not extend to others which are not named. (G. R. No. 8880 of 11th November 1884, R. D.)

Result of delay in taking possession under the Act.

Memo. by L. R.:—"By section 54 of Act X of 1870 it is obligatory on Government, when an award has been made by the Collector or a reference directed to the court, to complete the acquisition, and the courts would no doubt hold that the acquisition should be completed within a reasonable time after the amount of compensation has been finally settled by the Collector's award or by the court.

"2. Under section 16 of the Act, the Collector *may* take possession before the amount of compensation is settled, when a reference has been directed to the court; but this is a provision for cases in which the land is wanted without delay, and section 42 provides that 6 per cent. interest shall be paid from the time of taking possession, if it is taken before the compensation is paid. But where the acquisition is not immediately necessary it may often be to the advantage both of Government and of the owner that the Collector should not take possession till some time after the amount of compensation has been settled, as, for instance, when the owner has crops standing on the land which he wishes to bring to maturity and then remove. It is for this reason, I think, that the Act prescribes no period within which possession must be taken.

"3. But in the case reported by the Collector of Poona the court settled the compensation more than two years ago and it was not to suit the convenience of the owner that the Collector deferred taking possession all this time, but because the Irrigation Department were not in immediate want of the land. The owner knew, however, that the Collector might at any time take possession, and that if he should cultivate it, he would run the risk of losing the fruits of his labour and expense. A prudent owner would under such circumstances refrain from cultivating and hold Government responsible, if they failed to complete the acquisition and pay the compensation awarded by the court within a reasonable time.

"4. Had the owner in this case behaved in this manner and called upon Government from time to time to complete the acquisition, he would, I think, have a good claim for interest on his compensation money, *not* under section 42 of the Act, but by way of damages. It appears, however, that he has remained silent, and it is stated that he has cultivated the land for some portion of the time and reaped the crops. Whether in the uncertainty which existed as to when the Collector would take possession he was able to realize the full fruits of the soil may be doubted, but the fact that he realized something would go in mitigation of his claim for damages.

"5. I would recommend that the Collector now take possession of the land at once or, if the owner has crops on it at present, as soon as they are removed, and that he tender to the owner simultaneously the amount of compensation awarded by the court; and if the owner persists in claiming interest by way of compensation for the delay that has occurred in completing the acquisition, I would suggest that fuller inquiry be made into the circumstances of the cultivation of the land, and that the owner's own statement regarding it be taken. Government will then be in a position to determine whether some compensation appears to be fairly due to him for the delay, or, whether they will leave him to his remedy in the civil courts. (G. R. No. 1288 of February 1885, R. D.)

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* Quoted at page 629 of Nairne's Revenue Hand-book, Third Edition.

Application of the Act where possession has already been taken.

Memo. by L. R:—"I do not think that land which has already been taken possession of by Government and made over to the Railway Company, can be subsequently acquired under Act X of 1870, for the simple reason that there is nothing to acquire, and because the declarations and notices required by the Act refer exclusively to *intended acquisition*. Under the Act the Collector can only take possession of land *after* an award under section 14, or a reference to the Court under section 15, or in cases of urgency, after the expiration of 15 days from the date of notice under section 9.

"If matters could be restored to the *status quo ante*, and the land thus reverted to the parties originally interested in it, then the Act might be enforced; but if the land has been already taken up under private agreement with some of the parties interested, the only course available, as far as I can see, is to endeavour to come to terms with the remaining interested parties whose consent has not yet been obtained."

Result of possession taken before award or direction of Government under section 17.

Memo. by L. R.:—"A persual of sections 8 and 9 of Act X of 1870 shows clearly that its provisions are intended to apply to land of which the persons entitled thereto are in possession. The legislature did not contemplate that any Department of Government would enter upon land unauthorizedly and retain possession as a trespasser, and then afterwards seek to acquire a legal title thereto; and the Act, of course, makes no provision for such a case.

"2. Nevertheless, there is no legal objection, I think, to measures being taken now for acquiring the land under the Act. If it is possible, it would be expedient that possession should be restored to the rightful holders before such measures are set on foot; but this is not indispensable. In any case the acquisition will count only from the date on which the Collector lawfully takes possession under section 16 or 17 of the Act. The Act does not empower the Collector or other officer when making an award of compensation under it to settle damages for trespass previous to the legal acquisition of the land. For this, unless the Collector and the parties can come to terms separately, an action will lie against Government." (G. R. No. 441 of 7th February 1884, R. D.)

Where possession has been so improperly taken but not by Government.

"Memo. by Acting L. R:—It appears that the Honourable Mr. Naylor held that under certain circumstances a good title could be secured to Government under the Land Acquisition Act, notwithstanding the previous illegal occupation of land by Government.

"2. In the present case there is nothing to show that Government ever took possession illegally of the land in dispute at present occupied by the Pandharpur market. It seems merely to have assigned its interest, such as it might be, to the Municipality, and that body took possession and built on the ground without regard to the rights of Tátya bin Mandir. Under these circumstances as the land is not in the possession of Government at present, I can see no legal objection in the wording of the Land Acquisition Act to its acquisition for a public purpose, notwithstanding that purpose may be its use by the Pandharpur Municipality as a market.

"3. Although the Municipality has heretofore been in occupation of the land as a trespasser, it seems to me competent to Government, if it thinks fit, now to remedy the defect of title by taking up the land for its use in the manner proposed, subject, of course, to the payment by it of such compensation as may be awarded to Tátya bin Mandir or any other claimant. Had Government itself been the trespasser, possibly the case might have been different, but this is a point on which I need express no opinion as it does not arise." (G. R. No. 223 of 11th January 1885, R. D.)

Interest under section 48 on account of Award from date of taking possession.

The Bombay High Court has ruled that the District Court has no power to determine questions as to interest and payments of awards under Act X of 1870, but that if the District Court's jurisdiction is not objected to when the case is before that Court, its decree will not be interfered with on appeal: Dipaji Chandrarao *v.* Collector of Poona. (Decided 20th March 1890, as yet unpublished.)*

Payments where land is taken by private arrangements.

† Rules 5 and 6 of the rules prescribed by the Government of India regulating the procedure to be observed in bringing to account payments of compensation for land taken up under the Land Acquisition Act may be observed in the cases of lands required by private negotiations outside the Act. (G. R. No. 8762 of 13th December 1886, R. D.)

Payment of Awards under the Land Acquisition Act by Cheques.

Resolution of the Government of India in the Department of Finance and Commerce, dated 14th August 1886.

*It is to be noted, accordingly, that if an application is made to a District Court, to determine the amount of interest payable under section 42, or to obtain an order for the payment of the compensation with interest, objection should *at once* be taken to the jurisdiction of the Court, which, when the award and apportionment have been made, is *functus officio*, and has no jurisdiction in execution under the Act. (Note by Editor.)

†Vide *infra* p. 102.

Extract paragraph 3 of the letter from the Government of Bengal, No. 211-T-F., dated the 28th April 1886, as given below :—

The Lieutenant-Governor here desires to express his opinion that all payments of awards in land acquisition cases should be made by means of cheques, and that the use of cheques should be safe-guarded by a rigid observance of the following rules :—

(1) Every cheque-book should contain a certain number of cheques with consecutive printed numbers, and each book should contain its own serial number.

(2) The serial number of the cheque-book, and the number of cheques it contains, should be reported to the Treasury Officer before the book is brought into use.

(3) The cheque-book should be kept under lock and key by the Land Acquisition Officer himself.

(4) The cheques should be filled up by the Land Acquisition Officer, with his own hand, in words as well as figures, and cheques should be enfaced under Rs.

(5) A periodical examination of pass-books from the treasury with the counterfoils of the cheque-books should be made by the Land Acquisition Officer himself.

" RESOLUTION.—The Government of Bengal proposes that all payments of awards in land acquisition cases should be made by means of cheques, but there is reason to fear that the adoption of an invariable rule of this nature might in some instances be productive of inconvenience.

" When the property taken up by Government is near a treasury, the system of payment by cheques may be as convenient as payments in cash by the Land Acquisition Officer. But where the property is situated at a distance from a Treasury, and when the Land Acquisition Officer pays the compensation at or near the village in which the owners reside,—a course which is enjoined in paragraph 9 of the Resolution of 29th June 1886, the making of payments by means of cheques would probably be inconvenient to the payees, and the advantage of making final payments on the spot would be lost. The Governor-General in Council is therefore not prepared to direct that all payments shall be made by cheque. There is, however, no objection to a Local Government directing any particular Land Acquisition Officer to make all his payments by cheque if it appears that this practice will not cause inconvenience of the kind above referred to.

" The rules proposed by the Government of Bengal in order to safe-guard the use of cheques are approved. Those rules should be observed by all officers paying compensation for land who draw money from the treasury by cheque, whether in lump sums to be distributed to the payees in cash by the officer, or in detail, each cheque being payable to one of the persons to whom compensation is due." (G. R. No. 6596 of 17th September 1886, R. D.)

Orders of Government of India on the question of the debit of cost of temporary subordinate establishment specially engaged in connection with land acquisition, to work under officers of the Revenue Department, not placed at the disposal of the Public Works Department.

'In the cases provided for in the Civil Account Code, Rule 5, Chapter VI, *i.e.*, when the Civil Officer is made a Public Works disburser, there is no objection to any special establishment entertained by him (under orders of Government) being charged to the works concerned. But if he is not a Public Works disburser, then the charges should be brought to account in the Civil Department, and should not be debited to the Public Works Department.' (G. R. No. 2508 of 30th March 1889, R. D.)

Procedure to be observed for the payment of compensation for land taken up for public purposes under the Land Acquisition Act.

Government Resolution No. 5518, dated 4th August 1886, Revenue Department. Resolution of the Government of India in the Department of Finance and Commerce, No. 1580, dated 29th June 1886 :—

" It has been brought to the notice of the Governor General in Council that the orders regarding the payment of compensation for land taken up for public purposes under the Land Acquisition Act, 1870, and the audit of such payments are not everywhere carefully observed, and that it is desirable to consolidate and in some respects to modify these orders.

" 2. His Excellency accordingly, in supersession of all previous orders, directs that the following procedure shall be observed.

" 3. After all preliminaries in respect to estimate, &c., that may be required under departmental rules in force for the time being have been duly carried out, the land will be taken up under the Act either by the Collector or by some special officer who is placed at the disposal of the Public Works Department, and invested with the powers of a Collector under the Act ; the procedure differs in the two cases.

"4. Officers who are especially employed for this work, being invested with the powers of a Collector under the Act and placed at the disposal of the Public Works Department, are regarded as Public Works disbursers and are supplied with funds in the same manner as an Executive Engineer, as described in Chapter 23 of the Civil Account Code. The following procedure shall be observed by such officers.

"5. When the amount of compensation is accepted by the persons interested, and an award is made under section 14 of the Act, the officer shall have a statement prepared in the appended form (marked A), showing the amounts payable to each person under the award, and shall on the day the award is made forward a copy of the statement, signed by himself, to the Examiner of Public Works Accounts with whom he is in account. Before signing the copy, the officer should carefully satisfy himself that it correctly shows the amounts due under the award, and should himself both in the original and copy enter the total of column 6 of the statement in words.*

"6. In paying the amounts due under the award, the officer shall take the receipt of each person to whom money is paid on a separate voucher in the accompanying form (marked B), containing a reference to the item showing the amount due to that person in the statement prescribed in the preceding paragraph. The officer shall forward the receipts of the payees to the Examiner of Public Works Accounts with whom he is in account when forwarding to him the account of the month in which the payments are made.*

"7. In the event of the payees not presenting themselves for payment within a year from the date of the award, the amounts due may be paid into the Treasury on Revenue deposit, and vouched for in the accompanying form (marked C). Every endeavour should, however, be made to secure the presence of the payees to receive payment, so as to avoid as far as possible payment into the Treasury on deposit. When the payees ultimately claim payment of sums placed on deposit, the amounts will be paid to them in the same manner as ordinary Revenue deposits, under the authority of the Collector.

"8. When the compensation offered is not accepted by the persons interested, and the amounts payable are consequently settled by the award made by the Court under the provisions of Part III of the Act, the special officer shall, as soon as he ascertains what the award of the Court is, prepare a statement in Form A showing the amounts due under the award, and forward a copy to the Examiner in the same manner as prescribed in paragraph 5. In paying the amounts due under such award, the officer shall take from each person to whom a payment is made a receipt in Form B, or, in the event of the payees not presenting themselves for payment within a year from the date of the award, from the Treasury Officer in Form C, containing a reference to the entry showing the amount due in the statement just referred to, and shall forward those receipts to the Examiner of Public Works Accounts in forwarding to him the accounts of the month in which the payments are made.

"9. The special officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong. This will make it more easy to secure the attendance of the payees, and so reduce the number of sums which it will be necessary to place on deposit under paragraph 7.

"10. In any case in which a reference is made to the Civil Court, and the award of the Court is not made till after the special officer has been relieved of his special duties, the payments due under the award shall be made by the Collector, who will observe the same procedure as if the reference to the Civil Court had been made by himself, as prescribed in paragraphs 11 and 12 below.

"11. When the land is taken up by the Collector or other Civil Officer not specially employed for the work, such Collector or Civil Officer is not a Public Works disburser, but draws money for payment due under the award, made by him or by the Civil Court, from the Civil Treasury. Such Collector or Civil Officer shall, as soon as he makes the award, or as soon as he ascertains that an award has been made by the Civil Court, prepare a statement in Form A showing the amounts due, and forward a copy thereof to the Examiner of Public Works Accounts concerned in the manner prescribed in paragraphs 5 and 8.

"12. In making the payments due under the award, the Collector shall take from each person to whom payment is made a receipt in Form B containing a reference to the particular entry in the award showing the amount due to the payee. These receipts will be the Treasury Officer's vouchers for the payments, and shall be forwarded by him with the accounts of the month to the Accountant General of the province, who will in ordinary course forward them to the Examiner of Public Works Accounts. In the event of the payees not presenting themselves to receive

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* These rules may be observed in the case of lands acquired by private negotiations outside the Act (G. R. 8762, 13th December 1886, R. D.)

payment within a year from the date of the award, the amounts due may be placed on Revenue deposit, and receipts taken in Form C in the same manner as is provided in Rule 7.

"13. The Treasury Officer has no concern with the award or with the award statement; he makes the payments on the authority of the Collector, or other officer assessing compensation. The Collector may either draw the amount due to each payee separately, in which case he should countersign the receipt in Form B, and make it payable at the Treasury to the payee, altering the words 'Paid in my presence $\frac{\text{in cash}}{\text{by cheque}}$' to 'Pay'; or he may draw the total amount due under the award on his own receipt as an advance, and after making the payments forward the receipts of the payees to the Treasury Officer in adjustment of the advance. In the former case, an advice list of the forms passed for payment should be sent to the Treasury Officer, who in turn should send weekly an advice of orders paid.

"14. Whether the payment is made by a special officer or by the Collector (or other Civil Officer), the audit of the Examiner of Public Works Accounts shall consist in seeing that every payment is supported by a receipt in Form B or C, and that the amount paid on such receipt is the amount payable to the payee under the award, as shown in the statements of which he will have received copies under the preceding orders. The Examiner will also note in the last column of Form A the date on which possession is taken, as reported to him, by the Executive Engineer or other officer.

"15. The Examiner will, as he receives the vouchers, fill in the entries in column 8 of the award statement (Form A); and as he receives the reports of possession he will fill in the entries in column 9: when all the vouchers showing either payment to the payee or payment into the Treasury on deposit and the reports of possession have been received, he will forward a copy of the completed statement in Form A to the Chief Revenue Authority. This will complete the audit of the Examiner; any other or further returns or reports from the officers who assess or pay compensation, and any reports regarding the payment of sums placed on deposit under Rules 7 and 12 above, will be disposed of by the Chief Revenue Authority without reference to the Examiner.

"16. When the land is acquired for, and the cost is debitable to, the Military Works Department, the procedure above laid down will be observed, the Examiner of Military Works Accounts being substituted for the Examiner of Public Works Accounts.

"17. When the land is acquired for, and the cost is debitable to, any other Department than the Public Works Department or Military Works Department, the procedure will also be the same, the Account Officer who will audit the payments being subsituted for the Examiner of Public Works Accounts.

"18. In any case in which land is acquired for a Municipality or other body financially independent of Government, the Local Government may direct that the payments, instead of being made and audited in the same manner as the ordinary payments of such body, shall be made and audited as if the land were being acquired for Government. If the Local Government issues such an order, the Collector or other officer who makes payments on account of the land acquired shall draw funds from the Treasury and make payments in the manner laid down in these rules, using the forms prescribed, and shall render his accounts to the Civil Accountant General. The Municipality or other body will pay the estimated cost of the compensation to the credit of Government in advance on such dates and in such instalments as the Local Government may direct, further payment to Government being required as soon as the Accountant General reports that the payments made exceed the amount received in advance. The Accountant General will deal with the accounts and payments as prescribed in these rules, debiting the payments against the advances received from the Municipality or other body.

A.

§

NO. AND DATE OF STATEMENT._____.

DATE OF AWARD._____.

Name of work for which land has been acquired_____.

No. and date of declaration in *Gazette, viz.*, No._____, dated_____ page_____.

*Statement showing compensation awarded by*_____ *under Section* _____, *Act X of 1870, to all persons interested in the plot of land situated in the village of*_____, *in estate*_____, *No.*_____ *on the Revenue Roll of the District of*_____, *Pargana*_____.

1*	2	3	4	5	6	7	8*		9*	
Serial Number.	Names of persons to whom payment is due under the award.	Area of land.	Abatement of Land Revenue.	A valuation of any buildings that may be taken upon the land.	Total amount due to each person including the amount shown in column 5, the amount awarded for the land, interest, costs and any other amounts due to the payee in connection with the acquisition of the land.	Remarks.	NUMBER AND DATE OF VOUCHER.		DATE ON WHICH POSSESSION OF THE LAND WAS HANDED OVER TO THE DEPARTMENTAL AUTHORITIES FOR WHOM IT IS ACQUIRED.	
							No.	Date.	Date.	Reference to the report, stating the date.
		A. R. P.	*R. a. p.*	*R. a. p.*	*Rs. a. p.*					

*To be filled up in the Examiner's Office.

NOTE.

Each award statement should be confined to the lands to be taken under one declaration—*i.e.*, the awards given for lands acquired under more than one declaration should not be incorporated in one statement, but as many separate statements submitted as there are declarations.

B.

No. of Voucher _____

Name of work for which the land has been acquired _____

Serial No. _____ in Award Statement No. _____ dated _____

Name of payee _____

I _____, of _____,

pargana _____, zillah _____,

do hereby acknowledge to have received R _____

_____ on account of cost of land taken up by Government, as detailed on reverse.

Signature of the payee _____

Locality _____

NOTE—The receipt should be in English; but when the payee is unable to write in English, he may give a receipt in the vernacular.

B.

No of Voucher _____

Name of work for which the land has been acquired _____

Serial No. _____ in Award Statement No. _____ dated _____

Name of payee _____

I _____, of _____,

pargana _____, zillah _____,

do hereby acknowledge to have received R _____

_____ on account of cost of land taken up by Government, as detailed on reverse.

Signature of the payee _____

Locality _____

NOTE—The receipt should be in English; but when the payee is unable to write in English, he may give a receipt in the vernacular.

DETAILS OF LAND, &C., AND THEIR VALUES.

*Mauze*_____, *Pargana*_____, *Zillah*_____

*Land*_____ *Bigha*_____ *Cotta*_____ *Chuttack.*

*Value*_____ *Rupees*_____ *Annas*_____ *Pies.*

DETAILS OF LAND, &C., AND THEIR VALUES.

*Mauze*_____, *Pargana*_____, *Zillah*_____

*Land*_____ *Bigha*_____ *Cotta*_____ *Chuttack.*

*Value*_____ *Rupees*_____ *Annas*_____ *Pies.*

C.

Name of work for which land has been acquired_____

*To the Officer in charge of*_____ *Treasury.*

*Please receive for transfer to credit of Revenue deposits the sum of Rs.*_____ *on account of compensation for land taken up for the above purpose payable as detailed below :—*

Serial No. in Award Statement No.	Names of parties.	Area of land.	Amount payable to each.			Remarks.
		Acres.	*Rs.*	*a.*	*p.*	
	Total ...					

Land Acquisition Officer.

Dated *189*

Received the above amount and credited to Revenue deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to Treasury in the absence of proprietors who have failed to present themselves for payment.

C.

Name of work for which land has been acquired_____

*To the Officer in charge of*_____ *Treasury.*

*Please receive for transfer to credit of Revenue deposits the sum of Rs.*_____ *on account of compensation for land taken up for the above purpose payable as detailed below :—*

Serial No. in Award Statement No.	Names of parties.	Area of land.	Amount payable to each.			Remarks.
		Acres.	*Rs.*	*a.*	*p.*	
	Total ...					

Land Acquisition Officer.

Dated *1889*

Received the above amount and credited to Revenue deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to Treasury in the absence of proprietors who have failed to present themselves for payment.

PART III.

*RULES UNDER THE AGRICULTURISTS' LOANS ACT, XII OF 1884.

Under the provisions of section 4 of Act XII of 1884 the Governor of Bombay in Council is pleased, with the sanction of the Governor General in Council, to prescribe the following rules as to loans to be made for the purposes hereinafter appearing to

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*In Government Resolution No. 3016 of 2nd May, 1891, Revenue Department, the Governor in Council has laid down the following instructions for the guidance of District officers in making advances to cultivators under Acts XII of 1884 and XIX of 1883, *viz* :—

(1.) Government do not wish that these Acts should remain a dead letter. This fact should be generally made known to the rayats and due notice should be taken of all cases in which the rayats complain of inattention on the part of the Government officers in the matter of making advances.

(2.) The public notice contemplated in Section 5 of Act XIX of 1883 should not be issued except in cases of large loans for improvements which might affect prejudicially neighbouring holdings.

(3.) The Commissioners of Divisions in their joint report on this subject have made the following suggestions :—

"Each Mámlatdár should select 8 or 10 villages of a reasonable size in his táluka representing as it were specimens of groups of villages in various parts of his charge. Two or three months before the sowing season he should visit each selected village, assemble the rayats in the Chávdi, and explain to them fully the rules and conditions under which the advances are to be made. He should immediately ascertain who are in want of advances, make inquiries on the spot, and grant advances then and there in cash or by means of a cheque on the Táluka Treasury. In the case of larger amounts sanction of higher authority should be obtained within a month and immediate payment made at the village by the Mámlatdár or Aval-kárkun. This should have precedence over all other work. The Mámlatdár would require about two days in each village so that the whole would not take more than a month, allowing ten days for other urgent work, magisterial cases, and travelling. The result would be that the rayats of villages in which advances are thus made, as also those of adjoining villages will practically understand what the rules are, and will be able to appreciate the benevolent intentions of Government. If this process be repeated for two or three years, changing the villages each year, every one in the táluka would thoroughly understand the rules, &c."

These suggestions of the Commissioners are approved and should be acted upon.

(4.) The sufficiency of the security offered by the intended borrower should not be tested with unnecessary severity. The officer granting the loan should in this matter be guided by the same tests as an ordinary money-lender applies in the case of private loans.

(5). In cases where advances prove irrecoverable, the personal responsibility of Mámlatdárs should not be enforced when no fraud is proved, and the Mámlatdár can establish to the satisfaction of the Collector and Commissioner that he made proper inquiries and took reasonable precautions.

(6). Assistant and Deputy Collectors while on tour should set an example to the Mámlatdárs by personally taking up and disposing of a few cases every year. Instances of marked interest taken by any Táluka officers should be specially brought to the notice of Government by the Commissioners.

(7). Applications for loans under the Agriculturists' Loans Act should be disposed of as speedily as practicable, and if possible within one month from the date of the application.

(8.) Rules 10, 13, 16, 17 and 19 under the Land Improvement Loans Act and Rules 5 (*b*), 7 and 10 under the Agriculturists' Loans Act should be administered by the District officers in a liberal spirit.

(9). To bring the advantageous offers of Government to the attention of the rayats notices should be issued in all the villages throughout the district and published in the first place in the Chávdi of the village, a copy being kept in the current daftar of the village accountant.

(10). In districts where establishments of the Agricultural Department are employed, the officers of that Department should suggest such improvements to the cultivators as occur to them.

holders (as defined in Section 3 (11) of the Bombay Land Revenue Code, 1879) of arable land:—

(Notn. No. 678, *B. G. G.*, 1886, p. 81. 28th Jan. 1886.)

Allotment of the moneys available for the various divisions and districts.

1. Government will inform the Commissioners what sum will be available for loans under the Act in their respective divisions for each financial year. Each Commissioner will divide the allotted sum between the districts of his division at his discretion and may, at any time during the year, transfer any sum or portion of a sum assigned to one district to any other district. But expenditure within a division must be kept within the amount allotted by Government to that division. If an additional allotment be required for any division, it should be applied for by the Commissioner without delay. Government may at any time transfer any unexpended balance of the allotment of one division to any other division.

(Notn. No. 5150 A, *B. G. G.*, 1890, Pt. I., p. 728, 23rd July 1890.)

1A. For the purposes of these rules, in the districts where the Gujarát Tálukdárs' Act, 1888, is in force, the Tálukdári Settlement Officer shall, with reference to all immovable property under his management, be deemed to be an Assistant Collector in charge of a sub-division.

Purposes for which loans may be granted.

2. Loans may be granted to holders of arable land for the following objects:—

(*a*). Purchase of seed and grain, cattle and agricultural stock;

(*b*). Rebuilding houses destroyed by fire or flood;

(*c*). Any other purpose, not specified in the land Improvement Loans Act, 1883, connected with agricultural objects.

Applications if not in writing, to be reduced to writing.

3. Every application for a loan, if made verbally and not in writing, by the applicant shall be at once reduced to writing by the officer to whom it is made.

Notn. No. 3016 A, *B. G. G.*, 1891, Pt. I., p. 370, May 7th, 1891.)

4. (1) Every application for a loan shall be made to the Collector, Assistant or Deputy Collector in charge of the sub-division or to the Mámlatdár of the táluka or the Mahálkari of the petha.

(2) If the application is made to the Collector, Assistant or Deputy Collector in charge of the sub-division, such officer may, after making such enquiry as he may deem necessary, grant the loan applied for.

(3) If the application is made to the Mámlatdár or Mahálkari, such officer, after making personal enquiry as to the character of the applicant, his ability to give security and the fitness of the application,

(*a*) may, if the loan applied for does not exceed Rs. 50, and if he is satisfied with the result of such enquiry, grant the loan without the sanction of any superior officer, and

(*b*) shall, if the loan applied for exceeds Rs. 50, submit without unnecessary delay the application with his report to the Assistant or Deputy Collector, who shall pass such order thereon as he may deem proper.

(4) An Assistant or Deputy Collector in charge of a sub-division may, without the sanction of the Collector, grant applications for loans not exceeding Rs. 200 each.

(5) If a loan applied for exceeds Rs. 200, the Assistant or Deputy Collector shall at once apply for and before making the grant obtain the sanction of the Collector; and

(6) If the loan exceeds Rs. 500, the Collector shall at once apply for and before making the grant obtain the sanction of the Commissioner:

Provided that no loan shall be given to any holder who is in arrears for land revenue or for any loan made to him under the Land Improvement Loans Act, 1883, or these rules, except under a detailed order of the Collector granting the loan.

Conditions on which loans may be granted.

5. Loans shall be granted on the following conditions of repayment:—

(*a*) A loan for the purchase of seed shall be repaid within one year;

(*b*) A loan for the purchase of cattle or for any other lawful purpose shall be repaid within two years or such further period not exceeding ten as the Collector, with the sanction of the Commissioner, may see fit to fix.

Repayment before expiry of period fixed allowed.

6. Any person desirous of repaying the whole or part of the loan granted him at any time before the expiration of the period mentioned in the order may do so.

7. Repayments of loans shall be made by such instalments including interest as the officer granting the loan may determine: (Notn. No. 3016A., *B. G. G.*, 1891, Pt. I., p. 370, 7th May 1891.)

Provided that instalments may be suspended by order of the Assistant or Deputy Collector in charge of the sub-division on his being satisfied that there is good and sufficient reason for such indulgence.

8. (1) The rate of interest on loans granted under this Act shall be such, not less than 4½ per cent. per annum and not exceeding 6¼ per cent. per annum, as Government may direct either by special order in any particular or by general orders in respect of any táluka, district or division. But Government may, at its discretion for special reasons, direct that no interest at all shall be charged, or may remit any part of the interest due. (Notn. No. 5150A., *B. G. G.*, 1890, Pt. I., p. 728, 23rd July 1890.)

(2) If any sum due on account of a loan, whether in payment of the principal or of an instalment except in cases where the payment may be suspended

under the proviso to Rule 7, or of any interest chargeable thereon or of the costs, if any incurred in making the loan, be not paid when the same becomes due, compound interest shall be chargeable on such sum from the date when such sum becomes due to the date of payment, at the rate of 6 per cent. per annum, or at such higher rate as in any special case may, under the directions of the Governor in Council have been fixed in the conditions on which the loan has been granted.

Mortgage-bonds when and in what form to be taken.

9. Mortgage-bonds, in the form hereinafter prescribed in Appendix A., shall ordinarily be taken from the holders of lands to whom loans are made as security for repayment, and when the amount is considerable, should invariably be taken.

In all cases in which mortgage-bonds are not taken, an agreement in the form hereinafter prescribed in Appendix B. shall be executed.

Sureties.

10. Security of a Sávkár shall not be demanded for a loan, but in all cases the Collector should take measures, under the provisions of Chapter XI of the Bombay Land Revenue Code, 1879, to secure repayment of the loan as an arrear of land revenue, and when there are several applicants in the same village they should, if possible, be induced to become security one for the other.

[Notn. No. 3016A, *B. G. G.*, 1891, Pt. I., p. 379, 7th May 1891.)

11. When a loan has been granted, the money should be paid by the disbursing officer to the holder of the land or his recognised agent and a receipt taken; but when loans are required for the purchase of cattle, the Collector may take measures to purchase them and hand them over to the applicant.

APPENDIX A.

(Form of Mortgage-bond under Rule 9).

Whereas I have this day received a loan of Rs. from the Collector or on behalf of the Secretary of State for India in Council for the purpose of repayable with interest at in equal within years from this date;

I do hereby mortgage to the said Collector on behalf of the said Secretary of State for India in Council the holding, which is at present in my possession and enjoyment, namely Survey No. measuring acres gunthás, situated in the village of táluka of this district;

As security for the repayment of the said loan of Rs. with interest, the said holding to continue in my possession and enjoyment;

On condition that on my failing to pay any one instalment within months of the date on which such instalment becomes due,

Or on my transferring by sale, mortgage or gift the said holding, to any other person, the said holding shall forthwith become forfeited to Government.

In witness whereof the said has signed this deed.

Dated

Signed by

in the presence of (Signature.)

APPENDIX B.

(Form of Agreement under Rule 9.)

Whereas I have this day received a loan of Rs. from the Collector of on behalf of the Secretary of State for India in Council for the purpose of . I do hereby bind myself and do agree to repay the said sum with interest at in equal within years from this date; and in the case of my making default therein I hereby bind myself and do agree to pay at once to the Secretary of State for India in Council the balance of the loan which may be due with interest (if any) and with costs (if any) incurred in making or recovering the loan.

In witness whereof the said has signed this agreement.

Dated (Signature.)

(Form of Security to be subjoined to the bond of the principal.)

We hereby declare ourselves securities for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves and do agree severally and jointly to perform the same.

Date (Signature.)

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*RULES UNDER THE LAND IMPROVEMENT LOANS ACT XIX OF 1883.

Section 10.

(Notn. 1691A., *B. G. G.*, 1886 Pt. I., p. 200.)

Allotment of the monies available for loans to the various divisions and districts.

. Government will inform the Commissioners what sum will be available for loans under the Act in their respective divisions for each financial year. Each Commissioner will divide the allotted sum between the districts of his division at his discretion and may, at any time during the year, transfer any sum or portion of a sum assigned to one district to any other district. But expenditure within a division must be kept within the amount allotted by Government to that division. If an additional allotment be required for any division, it should be applied for by the Commissioner without delay. Government may at any time transfer any unexpended balance of the allotment of one division to any other division.

(Notn. 5150, *B.G.G.*, 1890, Pt. I., p. 728, 23rd July 1890.)

1A. For the purposes of these rules, in the districts where the Gujarát Tálukdárs Act, 1888, is in force, the Tálukdári Settlement Officer shall, with reference to all immoveable property under his management, be deemed to be an Assistant Collector in charge of a táluka.

Application for loans to whom to be made; and in what form.

2. Applications for loans may be presented to any Revenue officer not below the rank of a Mahálkari.

The application, if made in writing, shall be made in the Form A, hereto annexed, blank copies of which will be supplied to intending applicants free of charge. If an oral application be made, the officer to whom it is made shall cause it to be recorded as nearly as may be in the prescribed form and signed by the applicant.

(Notn. 3016, *B.G.G.*, 1891, Pt. I., p. 370, 7th May 1891.)

3. (1) Subject to the provisions of the Act and of these rules,

(*a*) Collectors may, without the sanction of the Commissioner of the Division, grant loans not exceeding Rs. 2,500 each in amount;

(*b*) Assistant and Deputy Collectors in charge of tálukas, subject to the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, relating to revision and appeal, shall, unless the Collector otherwise direct, exercise as regards such tálukas all the powers by these rules conferred on Collectors, and may in any case, without the sanction of the Collector, grant loans not exceeding Rs. 1,000 each.

Provided that:

(*a*) the aggregate of the loans granted in any one year must not, without the sanction of the

*The Act XIX of 1883 was brought into force in the whole of the Presidency of Bombay except Aden and the Island of Perim on 1st April 1886. (Notification 1691, *B. G. G.*, 1886, Pt. I., p. 200.)

(To be substituted for the Rules for the Guidance of Judging Committees of District Horse Shows, published at page 534 of the Compilation of General Rules in force in the Revenue Department.)

(Notn. No. 2167, *B. G. G.*, 1897, Pt. I, p. 538-539.)

I. The Deputy Commissioner or the Collector of the district shall be *ex-officio* President of the Horse Show Committee and will make all detailed arrangements for the management of the show. The Superintendent, Civil Veterinary Department, Bombay Presidency, if present, shall be a Judge. The remaining Judges to be appointed by the President.

II. Only *bonâ fide* horse-breeders will be allowed to compete for prizes. The Judging Committee will decide as to the eligibility of competitors.

NOTE.—In Sind the Horse Show is open to all comers, (*a*) Northern horses brought by dealers may only compete in classes "Fit for remounts" and "Ponies," and in class "Remounts purchased at the Show," if purchased by Government officers; (*b*) Exhibits by officers in Government service shall only receive certificates if awarded prizes. These certificates shall be additional to the ordinary prizes provided.

III. No mare or stock will be allowed to compete as "Served by Government stallions" or "Got by Government stallions" unless a certificate to that effect is produced by the exhibitor. These certificates are obtainable from officers in charge of stallions.

N.B.—This rule need not be enforced in Sind (Government Resolution No. 941 of 31st January 1896).

IV. Exhibits will be classed and tickets given by the Classification Committee, due intimation of time and place being given to all concerned.

V. Once classed the ticket must be kept round the animal's neck until after it has been judged. No animal will be judged that has not a class ticket.

VI. Prize winners will receive rosettes from the Judges, which must not be removed from the head stalls until the prizes have been given. Rosettes shall be coloured—

Blue for the first prize.
Red „ second „
White „ third „
Green for highly commended.
Yellow „ commended.

VII. A certificate (Parwána) will be given to each winner whether he takes his prize in money, khillut, or medal as he may think best.

VIII. No exhibit will receive a prize in more than one class.

N.B.—This rule does not apply to class "Stock purchased for the nursery" and class "Remounts purchased at the Show." Purchased at the Show applies only to animals classed by the Committee and subsequently bought.

IX. An animal is not a "gelding" unless both testicles have been excised.

X. Prizes for geldings are invariably to be given to the best animals competing.

XI. Entries for classes "Stock purchased at the Show" and "Remounts purchased at the Show" to be made *after* the entry has passed the Judges in its original class and by the purchaser.

XII. Unbranded mares winning prizes to be branded.

XIII. Horse and mule stock to be aged as follows :—

Foal at foot : under 6 months old ;

Foal : over 6 and under 12 months ;

Yearling : over 12 and under 24 months ;

Two-year-old : over 24 and under 36 months, and so on.

XIV. The Judging Committee will exercise its discretion in reducing or withholding prizes, if an exhibit in a class be not considered worthy of the prizes noted, or in granting extra prizes, if funds are available from savings in other classes. But the total sum available must on no account be exceeded.

XV. The system of judging animals competing is left to the discretion of the Committee; but practical soundness in a horse shall, however, be the *sine qua non* for taking a prize, and should not merely count equally with other points of merit. Should any branded mares or fillies be affected with any unsoundness which may be considered hereditary, they will be debarred from the receipt of any prizes.

Commissioner of the Division, exceed the sum assigned by him to that district for such year, and,

(*b*) every Collector shall submit to the Commissioner of his Division, on each of the dates marginally noted in every year, a quarterly statement showing every loan exceeding Rs. 500 in amount, made in his district, not included in a previous statement.

30th June.
30th September.
31st December.
31st March.

Every authority other than the Collector, on granting a loan exceeding Rs. 500 in amount, shall report the same to the Collector in time to admit of its being included in the quarterly statement then next to be submitted.'

(2) (*a*) No loan exceeding Rs. 2,500 shall be granted without the previous sanction of the Commissioner, and

(*b*) no loan exceeding Rs. 5,000 shall be granted without the previous sanction of Government.

(3) Government, in the case of loans requiring their sanction, and each Commissioner in the case of loans requiring his sanction, may call for such detailed plans and estimates or for such professional opinion on the project, for the purpose of which the loan is required, as may seem necessary before according sanction thereto.

4 The officer entertaining the application shall either make an enquiry himself, or cause one to be made by a Revenue officer not below the rank of Head Kárkún, for the purpose of ascertaining the particulars mentioned on the reverse of Form A.

Local enquiry to be made.

5. The objection, if any, submitted under section 5 of the Act, to the officer who received the application, shall be disposed of by him at the time that he makes the local enquiry, if he makes it himself, and, if not, upon the receipt of the report of the officer who made it. He shall then record the particulars of the objections and of his orders thereon in the appropriate space on the reverse of the application.

Application how to be disposed of after local enquiry.

If the officer who received the application is empowered by Rule 3 to grant loans of the amount applied for, he may himself grant or refuse the loan. Otherwise he shall forward the application, with a separate report, through the usual channel of communication to the Assistant or Deputy Collector in charge of the táluka, or to the Collector or to the Commissioner, as the case may be.

6. No loan shall be granted—

(1) to any land-holder who is a defaulter for land revenue, or for any loan previously made to him under the Land Improvement Loans Act, 1883, or any previous similar enactment.

In what cases loans be refused.

(2) to any inferior holder who is in arrears with his landlord for rent, or is a defaulter for any loan previously made to him under the said Act or any previous similar enactment;

(3) unless the officer disposing of the application shall be satisfied of the sufficiency of the security, if any, to be furnished by the borrower.

When collateral security may be dispensed with.

7. When the value of the applicant's interest in the land to be improved will clearly cover the amount of the loan applied for, with interest and the costs (if any) likely to be incurred in making the same, no collateral security need be required from him.

Nature of collateral security to be required.

8. Moveable property shall rarely be accepted as security.

Personal security may be accepted if the sureties offered are members of the same village community as the borrower, who are not less than three in number and are willing to bind themselves jointly and severally.

Loans not exceeding Rs. 500 to be paid in a lump sum.

9. A loan granted under these rules shall be paid to the borrower in one or more instalments as may seem fit to the officer granting it. Loans not exceeding Rs. 500 shall ordinarily be paid in a lump sum.

(Notn. 5150, *B.G.G.*, 1890, p. 1, 23rd July 1890.)

10 (1). Interest shall ordinarily be charged on all loans granted under the Act at the rate of 5 per cent. per annum. But the Government may, on the recommendation of the Commissioner, in any case, sanction the grant of a loan at a reduced rate of interest or without interest.

(2). Interest shall begin to run from a date which shall be fixed in this behalf by the authority who grants or sanctions the loan, but which shall not precede by more than six months the date fixed for the repayment of the first instalment of principal.

(3). If any sum due on account of a loan, whether in payment of the principal or of an instalment except in cases when the payment may be suspended as hereinafter provided in Rule 19 or of any interest chargeable thereon or of the costs, if any, incurred in making the loan, be not paid when the same becomes due, compound interest shall be chargeable on such sum from the date when such sum became due to the date of payment, at the rate of 6 per cent. per annum, or at such higher rate as in any special case may, under the directions of the Governor in Council, have been fixed in the conditions on which the loan has been granted.

Interest shall begin to run from a date to be fixed in this behalf by the authority who grants or sanctions the loans, but which shall not precede by more than six months the date fixed for the repayment of the first instalment of principal.

If any intalment of a loan, or any interest chargeable thereon, or the costs (if any) incurred in making

the loan be not paid when the same becomes due, the Collector may, if he thinks fit, charge interest on the amount due at any rate not exceeding Rs. 6¼ per cent per annum from the date when payment became due to the date of payment.

Execution of security bond.

11. An order granting a loan shall be in Form B, hereto annexed, and shall be signed by the applicant in token that he understands and agrees to the conditions contained therein. When the sureties (if any), whom the applicant is required to furnish, give personal security only, the bond to be executed by them shall be in the Form C, hereto annexed. When immoveable property is required to be given as collateral security, the security bond shall be in the Form D, hereto annexed.

Copy of the written order to be given to the borrower.

12. A copy of the order and counterpart agreement certified by the officer who grants the loan to be a true copy, shall then be given to the borrower, and payment of the loan shall be made to him in accordance with the conditions therein contained, on presentation of the said copy at the táluka treasury.

Inspection of works for which loans have been granted.

13. Subject to such general orders as Government may from time to time issue in this behalf, provision shall be made by each Collector for the inspection of works in his district for which loans have been granted until the said works are completed. The object of such inspection shall be to ascertain and secure that each loan is duly applied to the purpose for which it has been made.

Period of inspection.

14. Every work for which a loan has been made in a lump sum shall be inspected and reported on to the Collector as soon as possible after the date prescribed for its completion in the order granting the loan.

Every work for which a loan has been granted by instalments shall be inspected and reported on to the Collector before each instalment subsequent to the first is paid and the Collector may suspend payment of any such instalment, if he shall think that any condition of the order granting the loan has not been complied with by the borrower.

Loans to be repaid in consolidated instalments consisting of principal and interest.

15. The repayment of loans shall be made in instalments consolidating principal and interest, the amounts of which shall be fixed according to tables to be precribed by Government.

The costs, if any, incurred in making the loan shall be repaid along with the first instalment.

Date of first instalment how to be fixed.

16. The date for the payment of the first instalment shall be fixed with reference to the time when it is estimated that the improvement will begin to yield a return.

(Notn. No. 5150, *R.G.G.*, 1890, Pt. I., p. 728, 23rd July 1890.)

17. (1.) The period within which the loan shall be repaid by instalment, shall be fixed in such way that a reasonable portion of the profits accruing during such period shall be left with the borrower.

(2.) Such period shall not in any case, without the previous sanction of Government, exceed 20 years from the date of the advance of the loan, or when the loan is advanced in instalments, from the date of the advance of the last instalment thereof. Such sanction will be accorded only in very special circumstances, and will in no case extend such period beyond 30 years.

Dates of payment of instalments.

18. Instalments shall usually be made payable on the dates fixed for the payment of the land revenue.

(Notn. No. 3016, *B.G.G.*, 1891. Pt. I., p. 370, 7th May 1891.)

Suspension of Instalments.

19. Payment of instalments may be suspended by order and at the discretion of the Collector on his being satisfied that there is good and sufficient reason for granting such indulgence.

Early repayment may be permitted.

20. With the permission of the Collector, any borrower who wishes to do so may repay the loan received by him or any instalment thereof at an earlier date than that fixed in that behalf in the order granting the loan.

Recovery of arrears.

21. If at any time the Collector, or the Assistant or the Deputy Collector in charge of the táluka, is satisfied that the person who has received a loan has failed to comply with any of the conditions under which it was granted, either by misapplying the same or by failing to pay any instalment or costs on the date fixed for the payment thereof or otherwise howsoever, he shall after recording in writing the grounds of his decision, and subject to the control of the superior Revenue authorities, proceed to recover under the provisions of section 7 of the Act any sum still payable by such person.

Report to be made when arrears are irrecoverable.

22. When any portion of a loan made under these rules is found to be irrecoverable, a special report of the circumstances shall be made to the Commissioner.

Accounts how to be kept.

23. The accounts of all loans granted under the Act shall be kept in such form as the Local Government may from time to time prescribe.

(118—*a*)

FORM A.

Form of Application.

(Applicant's Signature.)

Name, residence, &c., of applicant.	Amount of loan required.	Nature of security, whether personal or otherwise.	Nature of proposed improvement.	Situation of the land.	Applicant's rights in the land.	Proposed dates of repayment.

Applicant's Signature.

NOTE—

(1) The State will advance money to landlords and cultivators for the construction of wells or tanks, the reclamation of waste or any work which may be declared by Government to be an improvement for the purposes of the Land Improvement Loans Act, 1883.

(2) Application for a loan may be made to any Revenue officer, not lower in rank than a Mahálkari, in the above form, free of stamp duty.

(3) The rate of interest will be 5 per cent. per annum and instalments will be distributed over a number of years.

(4) If the value of the applicant's interest in the land to be improved will cover the amount of the loan applied for, no collateral security for the repayment of the loan will be required. If the value of that interest will not cover the amount of the loan, collateral security will be required, in the form, ordinarily, either of the persons, security of a body of cultivators or of the hypothecation of immoveable property other than the land to be improved.

Particulars to be filled in by Enquiry Officer (Reverse of Form A.).

i. Village, survey number, area of land to be improved.

ii. Status of applicant, that is, whether he is an inámdár, registered occupant, co-occupant of inferior holder: and whether, if he has not the right to make the improvement, the person having that right consents* to the loan being granted for the purpose of making the improvement.

iii. Security offered—

(1) if the land itself, the value of the applicant's interest in it;

(2) if personal, the names and status of the co-sureties and the value of their immoveable property;

(3) if property other than the land itself, its nature, and value and extent of pre-existing encumbrances, if any.

iv. The improvement—

(1) its estimated utility and value;

(2) date on which it will probably begin to yield profit.

v. Re-payment—

(1) suitable date for first instalment with reference to iv (2);

(2) proposed instalments and period of the repayment.

vi. Date or dates on which the loan or instalments of it should be received by the applicant.

Recommendations of Enquiry Officer after verification of the above in the Registration and Revenue offices of the táluka.

PARTICULARS OF OBJECTIONS, IF ANY, TO BE FILLED IN BY THE OFFICER RECEIVING THE APPLICATION.

vii. Date of publication of notice, if any, under section 5 of the Act.

* NOTE.—When the loan is applied for by a person who has not the right to make the improvement, the person having that right should give in writing the consent required by section 4 of the Act, and the record of his conset should be signed by him and attested by at least two witnesses.

viii. Time and place fixed for appearance of objectors, if any.

ix. Objections raised, whether under section 5 of the Act or otherwise :—

Names of objectors.	Status of objectors.	Substance of objection.	Order thereon.

FORM B.

Order granting a Loan under the Land Improvement Loans Act, 1883.

The sum of Rs. is hereby granted to A B, son of [*with the consent of C D , the record whereof is hereto annexed] as a loan under the Land Improvement Loans Act, 1883, for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) subject to all the conditions of the said Act and of the rules made thereunder and to the following further conditions, namely :—

* To be inserted when the person to whom the loan is made has no right to make the improvement without the consent of another person.

(*a*) that the amount of this loan shall be paid to the aforesaid A B on the production of a copy of this order (the copy being certified by me to be a true copy) at the táluka treasury of †in the instalments and at the dates specified below :—

† To be inserted only when the loan is payable in instalments.

Dates.	Instalments.

(*b*) that the amount of this loan, with interest thereon, and the costs (if any) incurred in making the same, shall be repayable on the dates and by the amounts specified below :—

Date.	Principal.	Interest.	Costs (if any).	Total.

(*c*) That this loan shall be applied solely to the purpose specified above, and that if it shall be proved to the satisfaction of the Collector, or the Assistant or Deputy Collector in charge of the táluka, that any part of the loan has been misapplied the whole amount of the loan shall, with such interest as may have become due thereon, and such costs (if any) as may have been incurred in making the loan, be deemed to at once become due.

These clauses to be used only when needed.

(*d*) That unless (*here enter any conditions as to the period or periods appointed for completing the work*) has been completed by (date), the loan shall be held to have been misapplied.

(*e*) That for the re-payment of the loan with any interest due thereon, and the costs (if any) incurred in making the same, the immoveable property specified in the margin is, in addition to the land for the benefit of which the loan is granted, hypothecated as collateral security to Government.

NOTE.—All immoveable property hypothecated as collateral security, whether by the borrower himself or by a surety or sureties, should be specified in the margin of this clause of the order granting the loan, and should, as well as the land to be improved, be described as nearly as may be in the manner prescribed in section 21 of the Indian Registration Act, 1877.

(*Signature of officer granting the loan.*)

I have understood and agreed to the aforesaid terms and conditions.

(*Signature of borrower.*)

(118—*c*)

FORM C.

Security bond to be used when sureties give personal security only.

Whereas has on received from the an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of rupees as a loan from Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) we hereby agree that if the said shall fail to re-pay any instalment of the said loan or any interest or costs chargeable in respect thereof on the date on which the same may become due, according to the terms of the order, we will be jointly and severally liable to Government for such sum not exceeding as may be necessary to make good the amount which in consequence of his default he may have become liable to pay.

FORM D.

Security bond to be used when immoveable property is given as collateral security.

Whereas has received from the an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of Rs. as a loan from Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) and whereas collateral security for the punctual re-payment of the loan according to the terms of the order is demanded from the said , * I the said (*or* † I the said and we *or* ‡ we) mortgage to Government the immoveable property mentioned in the schedule below as a collateral security, and agree that if I fail (*or* the said fails) to re-pay any instalment of the said loan or any interest or costs chargeable in respect thereof, on the date on which the same may become due, the Collector, or the Assistant or Deputy Collector in charge of the táluka, may recover from the said property such sum as may be necessary to make good the amount which in consequence of my (*or* the said 's) default may be due from me (*or* him).

* To be used when the borrower alone gives collateral security.

† To be used when the borrower and his sureties all give collateral security.

‡ to be used when the collateral security is given by sureties only.

NOTE.—Applications for loans under the Land Improvement Loans Act, 1883, are exempt from payment of fees under the Court-fees Act under the Government of India Notification No. 1138, dated 29th May 1885, republished in the *Bombay Government Gazette* in Notification No. 4476, dated 3rd June following, and all instruments executed under the Act have also been exempted from stamp duty under the provisions of Act I. of 1879, Schedule II., Art. 12 (*a*), read with Section 2 (2) of Act XIX. of 1883.

Section 11, clause (1), proviso.

(Notn. No. 6676, *B.G.G.*, of 1891, Pt. I., p. 800.)

In exercise of the power conferred by clause (1) of the Proviso to Section 11 of the Land Improvement Loans Act (XIX of 1883), the Governor of Bombay in Council is pleased, with the approval of the Governor General in Council, to frame the following rule for the Presidency of Bombay, *viz.*:—

1. When waste-land has been reclaimed with the aid of a loan obtained under the said Act, the increase in value of the said land, derived from the reclamation thereof, may be taken into account, in revising the assessment of land revenue on the said land.

Rules made by the Governor in Council under Section 214 of the Bombay Land Revenue Code and published in Notification No. 7368 at pages 792—816 of the *Bombay Government Gazette* for 1881, Part I.

(*a*) in the case of land granted under No. 19 or No. 21 of the rules noted in the margin, after the expiration of the period fixed by the Collector in the grant thereof for the enjoyment of the said land-revenue free or at a reduced assessment;

(*b*) in any other case, after the expiration of the period prescribed in the grant of the land or in any rule, order or instruction respecting the same or applicable thereto, for the enjoyment of the said land as aforesaid.

PART IV.

RULES UNDER THE INDIAN FORESTS ACT, VII OF 1878.*

(A).—Rules of local application.

Under section 31 (i).

The following rules made by the Governor in Council under section 31 (*i*) of the Indian Forest Act, 1878, for regulating the pasturing of cattle in the Protected Forests in the districts of Kánara, Belgaum and Dhárwár, are published with the previous sanction of the Governor General in Council :— (Notn. No. 2419, *B. G. G.*, 1883, Pt. I., p. 258.)

*As regards rules under section 27 of the Act, a committee appointed to consider a draft set of rules relating to village and protected forests reported the following opinion :—

"2. The subjects submitted for our report were—1st, village forests, the remarks of the Government of India upon them, and the rules needed for them under section 27 of the Forest Act.

"There are no village forests as constituted by the Forest Act in this Presidency, and it appears to us to be very doubtful whether Government will for some time at least find it expedient to make any forests of this class. In the present condition of forests in Bombay it will, we think, be hardly possible for Government to assign its rights in forest lands to any village community without so much reservation that, as pointed out by the Government of India in paragraph 7 of their letter, it would be more expedient to begin by reserving and to make concessions than to begin by concession and make reservations. In the Southern Division, Government might be able to admit the people in some places to participate in forest privileges, but we question whether the village communities in such situations are sufficiently organized to be dealt with as a responsible body. We think, therefore, that for the present there is no need for any rules providing for village forests under section 27.

"3. 2nd, Protected forests.—This class of reserve appears to have been constituted by the legislature to meet the case of lands which it is not desirable to subject to rigid conservation in view of public right or convenience, and the tenor of the remarks in the letter of the Government of India leads generally to a conclusion that the recognition of such claims should be as little hampered by rules and procedure as is consistent with conservation.

"4. The Act, moreover, does not require that rules should be made all at once; it contemplates that they should be 'made from time to time.'

"5. The rules submitted to the Government of India were framed, we understand, to meet the requirements of certain forest areas in the Southern Division, and they are believed to embody the departmental procedure in force in those areas; but it is hardly possible that they should be equally applicable in the districts of the Northern Division in which the formation of protected forests is in contemplation.

"6. The conclusion which we have come to regarding the rules for protected forests is to recommend to Government that the reports of the Settlement Officer, the Conservator and the Collector concerned in the formation of protected forests should be awaited, and such rules as may be found requisite in each case should be adopted. It may be that some general rules applicable to all cases may be framed, but, as at present informed, we are of opinion that it would be premature to adopt any of those in the draft as of general application." (G. R. 6698 of 18th December 1880.)

(1) In every protected forest a fee shall be charged at such rates as shall from time to time be sanctioned by Government for the pasturing of cattle within such limits as shall from time to time be assigned by, or under the orders of, the Conservator of Forests for this purpose.

Fees for pasturing cattle

(2) No person shall pasture cattle in any portion of any such protected forest so assigned without previously paying the prescribed fee.

to be prepaid.

(3) Nothing in these rules shall be deemed to abridge or affect:

Limited effect of rules.

(a) any recorded right of any private person in any protected forest, or

(b) any existing grazing right of any private person in any protected forest declared under section 34 of the Act and in which rights of private persons have not been enquired into, settled and recorded.

(Notn. No. 185, *B. G. G.*, 1886. pp. 29 and 30.)

II.—Regulating the management of the Protected Forests in the marginally noted Villages of the Akola Táluka of the District of Ahmednagar.*

* Ghátghar.	Kumshet.
Uddavné.	Ambit.
Pánjré.	Pachmai.
Shinganvádi.	Lohári Kotul.

1. Lands of either of the two following descriptions may be cleared or broken up for cultivation in the said forest subject to the conditions, if any, respectively applicable thereto, *viz.*:

(a) land the right to cultivate which has been recorded in an enquiry under section 28 of the Forest Act, or

(b) land let for cultivation under a lease which is at the time in force and has been granted under these rules.

2. The unoccupied land in the said forest suitable for cultivation having been divided off by the Survey Department, under the orders of Government, into fields which bear distinctive numbers and having been measured and assessed by the said Department at a moderate rent, any of the said fields (hereinafter called "numbers") may be let at the rent so assessed to any person who is, and has been for not less than five years previously, a resident of the village in which the number is situate, subject to the conditions contained in these rules.

3. The lease of a number may be sold by public auction or granted, at the discretion of the Divisional Forest Officer, with or without payment of a premium.

4. Every lease granted under these rules shall be in the form A hereto annexed and shall be executed by the Divisional Forest Officer, if he is competent under the rules in force in this behalf to execute such an instrument, or otherwise by the Conservator.

No such lease shall be granted until the intending lessee has executed a counterpart agreement in the

form B hereto annexed, bearing an endorsement of the tenor prescribed in the said form signed by the village officers.

5. In the first year in which these rules are in force leases shall be granted for a term of thirty years. Leases granted after the said first year shall be for terms which will expire simultaneously with the terms of the first year's leases.

6. The rent due annually in respect of lands leased under these rules shall be payable in two equal instalments on the 10th December and 10th January respectively.

7. On the expiry of the term of any lease granted under these rules the lessee shall be entitled to a renewed lease for such term and subject to such conditions and the payment of such rent as Government shall think fit to prescribe.

8. Every lease granted or renewed under these rules may at any time be cancelled by the Divisional Forest Officer or the Conservator of Forests:

(*a*) If the lessee or any co-sharer of the land held by the lessee is convicted of any offence under section 32 of the Forest Act and such conviction is not subsequently reversed or quashed; or

(*b*) if the land included in the lease or any portion of it is subjected, without the previous sanction of the Divisional Forest Officer or of the Conservator of Forests, to any mortgage, charge, sub-lease or alienation; or

(*c*) if the land included in the lease or any portion of it is subjected to *dalhi* cultivation; or

(*d*) if any instalment of rent due in respect of the land is not paid or recovered under section 81 of the Forest Act, before the close of the revenue year in which it is payable;

(*e*) if the lessee ceases to be a resident of the village in which the land is situate.

When a lease is cancelled under this rule, it shall be deemed for the purposes of Rule 1 to cease to be in force from such date as shall be fixed in this behalf by the officer cancelling the same.

9. An appeal shall lie from any order made by the Divisional Forest Officer under the last preceding rule to the Conservator of Forests. The order of the Conservator of Forests shall be final.

10. No lease granted under these rules shall be deemed to confer upon the lessee any right in or over the trees or other forest produce of the land included in such lease; but, subject to a reservation of the right of Government at any time to reconsider and amend or cancel such concession and to the provision of Rule 11, the Governor in Council directs that the lessee of any land of which a lease is granted or renewed under these rules shall be permitted upon or from the said land:

(*a*) to lop trees, not being trees which are reserved under section 29 of the Forest Act, for the purpose of obtaining *ráb* for manure;

(*b*) with the written authority of the Divisional Forest Officer to cut and remove trees, not being trees reserved as aforesaid and not exceeding 15 inches in circumference at the base, which in the opinion of the said officer impede cultivation;

(*c*) to pasture and to cut and remove grass for his own cattle, sheep and goats;

(*d*) to gather and remove edible fruits and roots;

(*e*) to gather and remove dead wood for fuel;

(*f*) to quarry or gather and remove stones for his own use for any agricultural or domestic purpose.

11. Lessees exercising the privilege of lopping trees for obtaining *ráb* conceded by clause (*a*) of the last preceding rule shall leave uncut a main leading shoot (*shenda*) of each tree which they so lop.

12. Any person permanently residing in any of the said villages may, in any unoccupied number of the protected forest in the village in which he resides, pasture, or cut and remove grass for his own cattle, sheep and goats without license or payment of any fee.

The Governor in Council reserves the right at any time to reconsider and amend or cancel this concession.

13. Except as provided in Rule 10 and in the last preceding rule, no cattle, sheep or goats may be pastured and no grass may be cut in the said protected forest without written authority from the Divisional Forest Officer.

FORM A.

(See Rule 4.)

*FORM OF LEASE.

To *A. B.*_____ resident of_____

I, C. D. (here enter *the executant's official designation*), by order of the Governor of Bombay in Council, hereby grant, on behalf of the Secretary of State for India in Council, to you *A. B.* a lease for years commencing from the day of 189 of the field No. in the protected forest of the village of in the Akola Táluka of the Ahmednagar District on payment of an annual rent therefor of Rs.

This lease is granted subject to the provisions of the Indian Forest Act, 1878, and of the rules from time to time in force in the said protected forest framed under section 31 of the said Act.

Dated the day of 18 .

(Signed)
C. D.

FORM B.

(See Rule 4.)

FORM OF COUNTERPART AGREEMENT.

To the *Secretary of State for India in Council.*

I, *B. A.*, inhabitant of in the Akola Táluka of the Ahmednagar District, hereby accept the lease of the field No. in the protected forest of the above village for the term of years commencing on the day of 189 subject to the provisions of the Indian Forest Act, 1878, and of the rules from time to time in force in the said protected forest framed under section 31 of the said Act, and I undertake to pay annually Rs. on account of the rent of the said No. in the instalments and on the dates prescribed in this behalf in the rules aforesaid.

Dated the day of 189 .

Written by

(Signed)
A. B.

Signed by *A. B.* in the presence of

_____

_____

Endorsement.

We, the undersigned, declare that to the best of our knowledge and from the best information we have been able after careful inquiry to obtain, the person who has executed this agreement is *A. B.*, resident of the abovenamed village of , and that he has been residing in the said village for a period exceeding five years and is a fit person to be accepted as responsible for the punctual payment of the rent of the number which has been leased to him.

(Signed)
E. F. Patel. | of the above
G. H. Accountant. | village of

* The Government of India has, under section 8 of the Stamp Act, 1879, remitted prospectively and reprospectively the duty chargeable on leases granted under these rules: Notification No. 207, *B. G. G.*, 1886, p. 3.

(Notn. No. 186, *B. G. G.*, 1886, Pt. I., p. 3.)

In exercise of the power conferred by section 29 of the Indian Forest Act, 1878, the Governor in Council is pleased to prohibit in the protected forests in the villages marginally noted in the Akola Táluka of the Ahmednagar District, from the first day of February 1886—

Ghátghar.
Uddavné.
Pánjré.
Shinganvádi.
Kumshet.
Ambit.
Pachnai.
Lohári Kotul.

(*a*) the breaking up or clearing for cultivation, for building, for herding cattle, or for any other purpose, of any land in such forest except in accordance with the rules prescribed in that behalf under section 31 of the said Act in Government Notification No. 185, dated 12th instant;

(*b*) the quarrying of stone, the burning of lime or charcoal, and the collection of, or the subjection to, any manufacturing process, or the removal of any forest produce, except in accordance with the rules aforesaid and with the proviso to this notification:

Provided that, until further orders, any person permanently residing in any of the said villages may, in any unoccupied number in the protected forest of the village in which he resides:

(*c*) gather and remove edible fruits and roots,

(*d*) gather and remove dead wood for fuel,

(*e*) quarry or gather and remove stones for his own use for any agricultural or domestic purpose.

And in further exercise of the powers conferred by the said section the Governor in Council is pleased to declare all mango, hirda and jámbul trees and bámbus in the protected forest in the said villages to be reserved from the said date.

III.—Rules under Section 31 and prohibitions under Section 29 exactly similar to the above have been made with reference to the Protected Forests in the Village of Sámrad in the Akola Táluka, Ahmednagar District,—vide Notifications Nos. 1915 and 1915A., B. G. G., 1887, pp. 270 to 272.

IV.—Rules regulating the matters mentioned in Section 31 within the limits of the Protected Forests in the Dohad and Jhálod Mahál of the Panch Mahál District.

I.—No person shall—

(Notn. No. 185, *B. G. G.*, 1890, p. 75.)

Cutting trees and grazing cattle without license prohibited.

(*a*) fell, lop or cut any trees, or sever from any tree any portion thereof; or

(*b*) graze any cattle within the limits of the Protected Forests in the Dohad and Jhálod Mahál without or otherwise than in accordance with the terms of a license or permit in writing granted under these rules.

II.—No license or permit shall authorize any person—

No license to authorize cutting of reserved trees or grazing of camels or goats, &c.

(*a*) to cut or remove any tree of any class declared by Notification under section 29 of the Indian Forest Act to be reserved within the limits of the said Protected Forests;

(*b*) to graze or bring within the said limits any camel, goat, pig, or elephant.

Licenses to cut unreserved trees how obtainable and on what conditions.

III.—Every cultivator in a village containing Protected Forest may, on application to the Mámlatdár or Mahálkari of the mahál in which it is desired to exercise the privilege, obtain without payment a license to cut unreserved trees subject to the following provisions :

(*a*) The Mámlatdár or Mahálkari must be satisfied—

(1) that the applicant is a cultivator entitled by his residence in a village containing Protected Forest to claim such license;

(2) that the timber to be felled is to be used solely for agricultural or domestic purposes and not for sale;

(3) that such timber is not obtainable on the applicant's own land, or on any waste land other than forest land within reasonable distance.

(*b*) The Mámlatdár or Mahálkari may refuse a license if he considers that the applicant has on any occasion—

(1) broken the conditions of any license previously granted to him;

(2) been guilty of any forest offence or of any wilful act or gross negligence likely to cause injury or loss to Government in respect of any forest produce.

Particulars stated in license to be binding on the holder.

IV.—Every license to trees shall specify the following particulars :

(*a*) the name, father's name and residence of the licensee;

(*b*) the kind and approximate quantity of the timber thereby authorized to be cut; and

(*c*) the period for which it is to remain in force.

The statement of such particulars in a license shall be binding on the holder.

Permits to graze cattle to be granted free to resident cultivators in forest villages and to others on payment of fees.

V.—Permits to graze cattle kept for agricultural purposes shall be in writing and shall be granted either :

(*a*) to cultivators resident in the villages containing the said Protected Forests, and may be

obtained from the Patels or Talátis of the village without payment of fees; or

(*b*) to professional graziers and other persons not being cultivators resident in the villages containing the said Protected Forests, and may be obtained from the Mámlatdár or Mahálkari of the mahál in the Protected Forests of which the cattle are to be grazed on payment of fees at the rates specified below:

	Non-cultivators.			Professional graziers.		
	Rs.	a.	p.	Rs.	a.	p.
Buffalo	0	3	0	0	6	0
Cow or bullock	0	2	0	0	4	0
Horse or donkey or sheep ...	0	1	0	0	2	0

N.B.—Calves, &c., to be grazed free as long as they keep with the dam.

Particulars in permit to be binding on the holder.

VI.—Every permit to graze cattle shall specify—

(*a*) the name, father's name, and residence of the person to whom it is granted;

(*b*) the number and description of the cattle thereby authorized to graze;

(*c*) the fee, if any, paid in respect thereof;

(*d*) the period for which such permit is to remain in force.

The statement of such particulars in a permit shall be binding on the holder thereof.

Licenses and permits not transferable.

VII.—No license or permit granted under these rules shall be transferable, or authorize any act by any person except the holder, the members of his household, and his paid servants.

To be produced on demand,

VIII.—Every person acting under colour of a license or permit granted under these rules shall produce the same on demand thereof by any public servant.

and return on expiry.

IX.—Every holder of a license or permit shall, on the expiry of the period for which it was granted, return the same to the officer by whom it was granted.

Privileges of residents in forest villages without license or fee.

X.—All cultivators in villages containing the said Protected Forests shall be allowed without license, written permit, or payment of fee—

(*a*) to cut and remove grass, and to cut and remove branches of the saleda tree required for marriage ceremonies;

(*b*) to collect and remove mowra, mangoes, dead leaves of all sorts, gum, lac, honey, and other forest produce except timber;

(*c*) to remove head-loads of dead wood of all sorts including teak;

(*d*) to remove stone, kankar, and earth for their own use for domestic or agricultural purposes, but not for sale.

But such privileges shall be subject to the following condition:

(1) that the persons allowed to exercise them shall not set fire to any grass or other forest produce within the limits of the said Protected Forests, or stack any grass or other forest produce within the said limits.

XI.—The Mámlatdár or Mahálkari may grant written permission to any cultivator residing in a village containing Protected Forests to cut and remove free of charge thorns for fencing, specifying after consultation with the forest authorities, the portion of forest in which the cutting shall be made. In case of difference of opinion betwen the Mámlatdár or Mahálkari and those authorities, reference shall be made to the Collector, whose order shall be final.

Claim to license or privileges forfeited by abuse thereof.

XII.—Any person contravening or exceeding the conditions on which any privilege, license, or permit is or may be granted under these rules, or being guilty of any forest offence or of any wilful act or gross negligence likely to cause any loss or injury to Government in respect of any forest produce within the said Protected Forests, shall thereby forfeit all claim thereafter to any privilege, license or permit under these rules.

(Notn No. 885A., *B G. G.*, 1890, Pt. I., p. 76.)

In exercise of the powers conferred by Section 29 of the Indian Forest Act, 1878, His Excellency the Governor in Council is pleased to declare all trees of the classes marginally noted in the Protected Forests in the Dohad and Jhálod Mahals of the Panch Mahals District to be reserved from the 15th day of February 1890.

1 Teak.	10 Dhávda.
2 Blackwood.	11 Sadar.
3 Bhia.	12 Mowra.
4 Timra.	13 Mango.
5 Rohan.	14 Tamarind.
6 Ryan.	15 Nim.
7 Mokho.	16 Beherda.
8 Kher.	17 Chároli.
9 Bábul.	18 Bamboo.

2. In further exercise of the said powers His Excellency the Governor in Council is pleased from the said date to prohibit, within the said forests, except so far as may be permitted by any rule made under section 31 of the said Act:—

(*a*) the breaking up or clearing for cultivation, for building, for herding cattle, or for any other purpose any land therein;

(*b*) the quarrying of stone, the burning of lime or charcoal and the collection or subjection to any manufacturing process or removal of any forest produce.

(B) RULES OF GENERAL APPLICATION.

Under Section 41.

The following rules for regulating the transit of timber and other produce made under the provisions of section 41 of the Act by His Excellency the Governor in Council are published with the previous sanction of the Governor General in Council :—

† Notn. No. 4133, *B. G. G.*, 1880, Pt. I, p. 689, and Notn. No. 5586, *B. G. G.*, 1895, Pt. I, p. 918.

[*These rules are not in force in the Ahmedabad, Kaira and Broach Districts.—Notification No 2430, Bombay Government Gazette, 1883, Pt. I., p. 258.*]

(Notn. No. 33 *B. G. G.*, 1880, Pt. I., p. 689.)

1. All words used in these rules and defined in Act VII of 1878 (The Indian Forest Act) shall be deemed to have the meaning respectively attributed to them by the said Act.

2. No timber* or other forest produce shall be moved into or from any of the districts in the Presidency of Bombay mentioned in Appendix A, except by the routes therein respectively specified, or by such routes as may be entered in the pass by the Conservator of Forests or by any officer of Government authorised by him in that behalf.

3.† No timber or other forest produce shall be moved within any district of the Bombay Presidency, except within the limits of a Reserved Forest (whether a Village Forest or not) or of a Protected Forest,

and, except as is hereinafter otherwise provided, no timber or other forest produce shall be moved from or into any such district,

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*"Timber," as used in section 41 of the Indian Forest Act in the rules made under that section, signifies timber which is forest produce. (G. R. No. 8055 of 11th October 1884, R. D.) But now *vide* new Act V of 1890, section 2 (2) and section 6; and as to the construction of section 44 before the amendment of the Act, *vide* Proceedings of the Legislative Council, Gazette of Government of India, 4th September 1889, pp. 150-151, and 24th February 1890, pp. 26 and 27.

†The following rule has been made under section 157, clause (*c*) of the Sea Customs Act :—

No timber, firewood, bamboos, myrabolams and shikákái shipped at any place declared under section 12 of the Sea Customs Act, 1878, to be a port, or at any Customs port, except the port of Bombay and the ports in Sind and in the districts of Ahmedabad, Kaira and Broach, may be carried in a coasting vessel ;

(*a*) unless at the time of shipment the shipper appends to his Shipping Bill a pass in one or other of the forms hereinafter mentioned covering such timber, firewood, bamboos, myrabolams and shikákái ; nor

(*b*) until the Customs Collector at the port of shipment shall have certified by endorsement on the Shipping Bill that a pass as aforesaid has been produced before him and cancelled by him.

The pass required by this rule shall be either a pass granted by a competent officer under No. 3 of the rules framed by Government under section 41 of the Indian Forest Act, 1878, and published at page 689 of the *Bombay Government Gazette* for 1880, Part I, or a pass granted for the purpose of this rule by an officer belonging to any of the classes mentioned below :—

Mámlatdárs.
Head Kárkúns.
General Duty Kárkúns.
Talátis.
Kulkarnis.
Mahálkaris.

(Notn. No. 5421, *B. G. G.*, 1884, p. 500, and Notn. No. 941, *B. G. G.*, 1885, p. 144.)

without a pass from a Conservator of Forests, or from some officer empowered by a Conservator of Forests, or from some person duly authorized under Rule 13 to issue such pass, or otherwise than in accordance with the conditions of such pass:

Provided that nothing in this rule shall be deemed

(*a*) to apply to timber or forest produce which is the property of Government, or

(*b*) to apply to timber or other forest produce, the property of one person, or the joint property of two or more persons, which is conveyed in quantities not exceeding one head-load once in twenty-four hours, or

*(*c*) to require a pass for the removal of any timber or other forest produce within the limits of the village in which it was produced.

4. Every pass issued under the last rule shall specify:—

(1) the name of the person to whom such pass is granted;

(2) the quantity and description of timber or other forest produce covered by it;

(3) the places from and to which such timber or other forest produce is to be conveyed, and the route by which it is to be conveyed;

(4) the period for which such pass is to be in force;

(5) the officer to whom it is to be returned on the expiry of such period, or on the arrival of the timber or other forest produce at its destination, whichever event happens the first.

5. In the case of timber or other forest produce which it is wished to import otherwise than by sea from any place beyond the frontier of British India, no pass shall be issued under Rule 3 unless upon production of a "Foreign Pass" covering such timber or other forest produce, nor, if such timber be of large scantling, unless it bears a Foreign Property-mark.

6. Every such Foreign Pass must be in a form, and every such Foreign Property-mark must be of a description, which has been registered in the office of the Conservator of Forests of the Division into which it is sought to import such timber, or forest produce, and such Foreign Pass must bear the signature of some officer or other person whose name or official designation has been duly registered in the said office as an officer or person duly authorized to sign such passes.

7. Any timber or other forest produce, which it is wished to import otherwise than by sea from any

* Memo. by L. R:—Land which is declared to be a reserved or protected forest does not cease to form part of the village in which it was originally situated merely because it becomes a forest. I think, therefore, that proviso (*c*) to No. 3 of the rules under section 41 of the Forest Act dispenses with the necessity of a pass for timber taken from a reserved or protected forest to any other part of the same village in which such forest is situated. (G. R. No. 3806 of 26th May 1886, R. D.)

place beyond the frontier of British India, may be conveyed within such frontier by any of the routes named in Appendix A., or by such routes as may be prescribed by the Conservator of Forests or by any officer of Government authorized by him in that behalf as far as the first depôt on such route established under Rule 15, without a pass under Rule 3, if it is covered by a Foreign Pass in proper from and duly signed and if, in the case of timber of large scantling, it is marked with a registered Foreign Property-mark, but not otherwise.

No such timber or forest produce shall be stacked, or deposited in any place between the frontier and such depôt, or be moved beyond such depôt without a pass issued under the said rule.

8. If the Conservator of Forests of the Division shall so direct, no timber of large scantling, which has been imported as aforesaid by any particular route, shall be moved beyond such first depôt without first having a Government transit mark of such description as the said Conservator shall prescribe stamped upon it.

9. In respect of every pass issued under Rule 3 there shall be payable such fee, if any, as the Conservator of Forests shall, from time to time, prescribe with the previous sanction of Government, for each district, and no such pass shall be issued until the fee so prescribed has been paid.

10. No person who belongs to a community to which a Village Forest is assigned and no inhabitant of a town or village in the vicinity of a Protected Forest, who is permitted to take timber or other forest produce from such forest for his own use, shall be entitled to receive a pass under Rule 3 for the removal of timber or forest produce from such forest to any place beyond the limits of the town or village in which such person resides :

Provided that in the district of Kánara a pass may be issued for moving from the said district any timber which has been given, on payment of the fees to be hereafter prescribed, for a specific purpose, and has been used by the grantee for that purpose,

but only on payment of an additional fee of fifty per cent. on the amount of the fee originally paid, if such timber is being moved by any person other than the original grantee,

unless the Collector, or the Conservator of Forests, or any of their Assistants or Deputies to whom an application may be made in this behalf, shall be satisfied that such timber is being moved for charitable purpose and shall be of opinion that such additional fee should be reduced or remitted,

in which case a pass may be granted either without additional fee or on payment of a reduced fee, as the Collector or other officer aforesaid shall determine.

11. In every other case the owner of timber or other forest produce shall be entitled to receive a pass for the same under Rule 3 for any of the purposes for which such passes may be granted.

12. In the district of Kánara passes under Rule 3 for the moving of timber or other forest produce beyond the inland frontier of the said district will be issued in duplicate, one white and one green, and the date of exit will be recorded upon each of such duplicate passes by the Forest Officer at the appointed watch-house on the frontier, and the green pass shall be surrendered by the holder thereof to such officer, who shall return it without delay to the office from which it was issued.

13. The Conservator of Forests may, if he thinks fit, at any time, by an order in writing:

(*a*) authorize any person who is an owner of timber or other forest produce, or the agent of any such owner, to issue passes under Rule 3 in respect of any timber or other forest produce which belongs to such person, or to the person for whom such person is agent, and

(*b*) cancel such authorization.

When the Conservator of Forests authorizes any person under clause (*a*) of this rule, he shall furnish such person from time to time with authenticated books of blank printed forms of passes with the particulars required by clauses (4) and (5) of Rule 4 already filled in, and no alteration shall be made by such person in any of the said particulars, or if made, shall have any validity. (G. R. 5028, 5th July 1883.)

The said person shall pay for each such book such sum as shall from time to time be determined by the Conservator of Forests, and in the event of an order being passed by the Conservator of Fosests under clause (*b*) of this rule, shall at once return to the said Conservator every unused book and every unused portion of any such book then remaining in his possession, and shall be entitled to receive back the amount paid by him in respect of such unused book or portion of a book.

No pass issued by any such person after the issue of an order under clause (*b*) of this rule, and no pass issued by him which is not on a form supplied to him as aforesaid, shall have any validity.

*14. Timber or other forest produce in transit may be stopped and examined at any place by any Forest or Police officer if such officer shall have reasonable ground for suspecting that any money which is payable to Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof.

The person in charge of any such timber or other forest produce shall furnish to any such officer all the information which he is able regarding such timber or other forest produce, and if he is removing the same under a pass shall produce such pass, on

*All officers of the Customs, Salt and Ábkári Departments are appointed Forest Officers for the purposes of carrying out the provisions of Section 52 of the Indian Forest Act, 1878, and Rule 14 of the Rules made under Section 41 of the same Act, but this does not apply to the Ahmedabad, Kaira and Broach Districts. (Notification No. 7990-A, B. G. G. 1882. pt. I. p. 97, and Notification No. 2430, B. G. G. 1883. pt. I. p. 258.)

demand, for the inspection of such officer, and shall not in any way prevent or resist the stoppage or examination of the said timber or other forest produce by such officer:

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any timber or other forest produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such timber or other forest produce, or cause the same to be unloaded, for the purpose of examination.

15. The Conservator of Forests may establish at such convenient places as he shall think fit on the routes by which timber or other forest produce may lawfully be conveyed, depôts to which such timber or other produce shall be taken for all or any of the following purposes (namely) :—

for examination previous to the grant of a pass in respect thereof under Rule 3 or under Rule 13, or

for determining the amount of money, if any, payable on account thereof to Government, and for the payment of such money, or

in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

16. A Forest Officer appointed by or under the orders of the Conservator shall have charge of each such depôt, and no timber or other forest produce shall be brought into, stored at, or removed from a depôt without the permission of such officer, and for storing timber or other forest produce in such depôt, and allowing laden carts, or loads or cattle to stand or to be deposited therein, such fees shall be payable as the Conservator of Forests, with the previous sanction of Government, shall from time to time notify.

17. The Conservator of Forests shall from time to time make known by notification published in the *Bombay Government Gazette*, and locally in such manner as he deems fit, the name and situation of every depôt in his division.

18. The person in charge of any vessel which carries timber or other forest produce on a river on the banks of which one or more of such depôts are situated, shall call and stop his vessel at each such depôt which he has to pass, in order that the timber or other forest produce may be examined, if necessary, under the provisions of Rule 14, and the person in charge of such vessel shall not proceed with such vessel past any such depôt without the permission of the Forest Officer in charge of such depôt.

19. No person shall close up or obstruct the channel or any portion of the bank of any river lawfully used for the transit of timber or other forest produce, or throw grass, brushwood, branches, or leaves into any such river, or do any other act which may cause such river to be closed or obstruct-

20. Any Forest Officer not lower in rank than a Sub-Assistant Conservator of Forests may take such measures as he shall at any time deem to be emergently necessary for the prevention, or removal of any obstruction of the channel, or of any part of a bank of a river lawfully used for the transit of timber or other forest produce, but any such case which is not emergent shall be reported to the Collector, who may by written notice require the person whose act or negligence has caused or is likely to cause the obstruction, to remove or take steps for preventing the same within a period to be named in such notice, and if such person fails to comply with such notice may himself cause such measures to be taken as he shall deem necessary.

The reasonable costs incurred by a Forest Officer or by the Collector under this rule shall be payable to Government by the person whose act or negligence necessitated the same.

*21. No person shall establish a saw-pit or convert, cut, burn, conceal or mark timber within one mile of the limits of any Reserved Forest (whether a Village Forest or not) or of any Protected Forest, without the previous written permission of a Forest Officer not lower in rank than a Sub-Assistant Conservator.

22. No timber of large scantling which does not belong to Government shall be moved from any district of the Presidency of Bombay, unless there is affixed thereto a distinguishable Private Property-mark of the owner of such timber of a description which has been registered in the office of the Conservator of the Division, nor (if the said Conservator shall so direct) unless there has been made thereupon a Government transit mark of such description as shall from time to time be prescribed in this behalf by the said Conservator.

23. The Conservator of Forests shall, upon receipt of an application for registration of any form, mark, or name for the purposes of Rule 6 or Rule 22, inquire into the authenticity of the same, and if he sees no objection shall, on payment by the applicant of such fee as shall from time to time be prescribed by Government, register such form, mark or name in his office.

Every such registration shall be held good for a period of one year only.

24. No person other than a Forest Officer whose duty it is to use such mark, shall use any property-

*Timber under section 41 of the Forest Act and the rules passed under that section has been decided to be, timber when found in or brought from a Government or private forest. Rule 21 cannot therefore be applied to trees or brushwood growing on occupied land outside a forest. Government consider that Rule 21 cannot be used to prohibit absolutely the establishment of a bangle-maker's furnace. It can only be applied to the burning therein of timber from a forest, so that if any one is proved to have burned such timber in a furnace within the prescribed limit without a permit, he is liable to the penalties prescribed in Rule 26. (G. R. No. 3758, 25th May 1886, R. D.) (N.B.—This Resolution was based upon the interpretation put upon Section 41 before Act V of 1890 became law.)

mark for timber which is identical with, or nearly resembles any Government transit mark, or any mark with which timber belonging to Government is marked;

and no person shall, while any timber is in transit under a pass issued under Rule 13, alter or efface any mark on the same.

25. Nothing in the foregoing Rules 2 to 24, both inclusive, shall be deemed to apply to the Province of Sind.*

In that Province the special rules contained in Appendix B shall be applicable.

26. Any person who breaks any of the foregoing Rules 2 to 24, both inclusive, or any of the rules contained in Appendix B, shall be punished with imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

27. Nothing in the foregoing Rules 2 to 26, of both inclusive, shall be deemed to apply to the city Bombay as defined in the Bombay General Clauses Act, 1866.†

20th October 1879.

(C). In exercise of the power conferred by section 51 of the Indian Forest Act, 1878, the Governor in Council is pleased to make the following rules concerning the collection of drift and stranded timber:—

(Notn. No 547*A., B.* *G. G.*, 1879, p. 847.)

1. Any person may collect timber of any of the descriptions set forth in section 45 of the Act, and, pending the bringing of the same to the proper depôt for the reception of drift-timber, may keep the same in his own custody, but he shall report his having done so within 24 hours to the nearest Forest Officer.

2. Any person may register in the office of the Conservator of Forest one or more boats for use in salving and collecting timber, on payment of a fee of one rupee for each boat.

Such registration shall hold good for the period of one year only, but may be repeated from year to year.

3. Every person, whether a Forest Officer or not, who collects any such timber, shall be entitled to receive a recompense equal to 15 per cent. of the estimated value of the timber. Such estimate shall be made by any Forest Officer not lower in rank than an Assistant Conservator of Forests, whom the Conservator specially authorizes in this behalf, and the recompense shall be paid at once by Government: Provided that when the timber has been recovered by means of a boat registered for use in salving and collecting timber, the person who collected it shall be entitled to receive a recompense equal to 25

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* For special rules under sec. 41 for the Province of Sind—vide *infra*, p. 137.

† *Vide* now B. III of 1886, sec. 3 (7).

per cent. of its estimated value, and that in special cases the Conservator may increase the amount of the recompense to a sum not exceeding 50 per cent. of the value of the timber collected.

4. If the timber collected shall be proved to be the property of any person other than Government, such person shall be liable to pay to Government, under section 50 of the Act, the following amounts (namely):—

(1) on account of salving and collecting, the actual amount of recompense paid to the person who collected it;

(2) on account of moving, the actual cost incurred in moving it to the depôt for the reception of drift-timber;

(3) on account of storing, such fees as shall from time to time be fixed by the Conservator of Forests, with the previous sanction of Government, for the storing of timber at such depôt.

5. No person other than a Forest Officer authorized in this behalf by the Conservator of Forests shall mark any timber, or have in his possession any hammer for marking any timber to which these Rules refer.

6. Any person who breaks Rule 1 or Rule 5 shall be punished with imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(D.) In exercise of the power conferred by section 75 of the Indian Forest Act, 1878, the Governor in Council is pleased to make the following subsidiary rules:—

1. One-half of the proceeds of fines and confiscations under the Act shall be paid by way of reward to the officers and informers through whose instrumentality the conviction was obtained, or the property liable to confiscation was discovered: Provided that the Magistrate who tries any case under the Act may, if he thinks fit, direct that a larger amount than one-half shall be so paid. (Notn. No. 5487, *B. G. G.*, 1879, Pt. I., p. 847.)

When more persons than one are entitled to the reward under this Rule, the Conservator of Forests shall determine the proportions in which it shall be divided amongst them.

2. No person shall cut, lop or in any way injure, appropriate, or remove any tree, or any loppings thereof, which is the property of Government grown or growing on lands belonging to or in the occupation of private persons; or knowingly and wilfully permit or abet the cutting, lopping, injuring, appropriating or removing of the same by any other person, without having first obtained the permission of the Collector, or, in the case of teak, blackwood or sandalwood trees, of the Conservator of Forests. (Notn. No. 343, *B. G. G.*, 1883, Pt. I., p. 59.)

(Notn. No. 202, B. G. G., 1885, Pt. I., p. 66.)

(E.) In exercise of the power conferred by section 75 (*c*) of the Indian Forest Act, 1878, the Governor in Council is pleased to make the following rules for the preservation of trees belonging to Government, but grown on occupied varkas lands to which Survey Settlement has been extended in the villages formerly comprised in the Sanján and Kolvan Tálukas of the Thána District:—

1. No person who is not entitled under the said Survey Settlement to any privilege, in respect of any tree belonging to Government growing in any varkas land to which that Settlement has been extended, shall fell, remove, destroy, lop or in any way injure any such tree, except under the order of the Assistant or Deputy Collector in charge of the táluka, or of the Divisional Forest Officer.

2. No person who is entitled to any privilege conceded under the said Settlement in respect of any such tree as aforesaid shall—

(a) exercise such privilege except in such manner and to such extent as may be allowed by any rule at the time in force prescribed in this behalf by the Collector of Thána under section 44 of the Bombay Land Revenue Code, 1879;

(b) fell, remove, destroy, lop or in any way injure any teak, tiwas or blackwood tree belonging to Government, growing in any such land as aforesaid, except under the order of the Assistant or Deputy Collector in charge of the táluka, or of the Divisional Forest Officer.

3. If an occupant of any such land as aforesaid wishes to clear the same for cultivation, he shall first of all make an application to the Assistant or Deputy Collector in charge of the táluka giving the following details:—

(a) his name, caste and residence;

(b) the village in which the land is situated, its survey number, the area of the land to be cleared, the name of the registered occupant;

(c) the numbers and kinds of trees to be cut down.

The Assistant or Deputy Collector, after making inquiry, shall forward the application with a report, to the Collector for orders.

If permission is given to clear the land, the trees when cut shall be at the disposal of the Forest Department.

Rules made by the Collector of Thána, in exercise of the power conferred by section 44 of the Bombay Land Revenue Code, 1879, for regulating the exercise of the privilege of cutting firewood and timber for domestic or agricultural purposes conceded under the terms of the Survey Settlement extended to the villages formerly comprised in the Sanján and Kolvan Tálukas of the Thána District to the occupants of varkas land subject to the said Settlement and to their tenants (namely):—

1. The said concession did not extend to teak, tiwas or blackwood trees (which are hereinafter called "the excepted trees"), and persons exercising the privilege must not remove, destroy, lop, or in any way injure any tree of any of those three descriptions.

2. The said concession did not extend to the removal of any tree or any portion of a tree for the purposes of sale or trade, and persons exercising the privilege must do so only for their own *bonâ fide* domestic or agricultural purposes.

3. Persons exercising the privilege for the purpose of obtaining *ráb* must not cut the leading shoot *(shendá)* of any tree which they lop for this purpose, nor touch young shoots or seedlings.

4. Persons entitled to exercise the privilege may, without previously obtaining permission, do any of the following things in any varkas land in their respective occupation, provided that the wood, &c., gathered or cut is for use within the limits of the village in which the gathering or cutting is made *(viz.)*:—

(1) gather fallen dead wood and, if that is insufficient, cut wood from any but the excepted trees, for firewood;

(2) cut wood from any but the excepted trees or bamboos for the purpose of making or preparing any agricultural implement;

(3) cut branches for ráb from any but the excepted trees;

(4) cut thorny bushes or bamboos for hedges.

*It is not intended by the rules to place any restrictions on the enjoyment of the privilege conceded to holders of occupied varkas lands at the time of the survey settlement, but simply to regulate the exercise of those privileges so as to enable Government officers to restrict them to their just limits and to prevent any reckless denudation of the varkas lands on which mainly the ryots have to depend for the supply of materials for ráb, as also to preserve the teak, blackwood and tiwas trees growing on such lands, which are the property of Government, from injury or loss.

As regards the rights of occupants to trees in varkas lands, the Umbargaon Patha should be treated on the same footing as the rest of the Dáhánu Táluka. (G. R. No. 202, 9th January 1885, R. D.)

5. If any person entitled to exercise the privilege desires to cut wood from any but the excepted trees, or bamboos, in any varkas land in his occupation, for building purposes, whether the wood or bamboos are to be used within the limits of the same village in which they are cut or elsewhere;

and if any such person desires to do, in any varkas land in his occupation in one village, any of the things mentioned in Rule 4 for the purpose of conveying the wood, &c., so gathered or cut, to, and using the same in, any other village in which he has a house or land, he must first of all obtain permission.

6. The permission requisite under the last preceding rule may be granted as follows:—

(*a*) for cutting wood for building purposes;
(*b*) for cutting and removing bamboos to another village for any purpose;
(*c*) for gathering or cutting and removing firewood to another village in any quantity exceeding in the aggregate ten cart-loads for any one household during one year;

} by the Assistant or Deputy Collector in charge of the táluka

(*d*) for any other purpose.

} by the Mámlatdár or Mahálkari.

But applications for permission may in every case be received and inquired into by the Mámlatdár or Mahálkari, who, if necessary, will obtain the order of the Assistant or Deputy Collector thereon.

7. Every application for permission under Rule 5 must be in writing and must contain the following particulars:—

(*a*) the name, caste and residence of the applicant;
(*b*) the village and survey number in which the wood, &c., is to be gathered or cut, and the name of the registered occupant;
(*c*) when wood is to be cut or removed, the kind of trees, their number and dimensions, and their estimated value;
(*d*) when firewood, bushes or bamboos are to be removed, the number of cart-loads;
(*e*) the time within which it is proposed that the wood, &c., shall be cut and removed;
(*f*) the village to which the wood is to be taken, if wanted for transport, and the route by which it is to be taken.
(*g*) the object for which the wood is required.

8. When permission is in any case given under Rule 5, a pass in the form hereto annexed will be prepared in four parts, of which one will be retained by the Assistant or Deputy Collector and three will be sent to the Mámlatdár or Mahálkari, who will keep one himself, send one to the Forest Ranger, and deliver one to the applicant. If the Mámlatdár or Mahálkari himself gives the permission, one part will be unused.

A pass granted under this rule will not render unnecessary any pass required by the rules in force in the Forest Department.

9. Permission shall not be granted for the cutting or removal of any wood, &c., of an amount which the officer empowered to grant permission deems unnecessarily large; and the said officer shall enter in the pass such limit of time as he considers reasonable within which the cutting or removal permitted by him shall be completed; and if such cutting or removal is not completed within the time so prescribed, the pass shall nevertheless cease to be in force, and application must be made for a fresh pass before any further cutting or removal is made.

Permit to cut or remove Wood, &c., from Occupied Land.

No.

Name of Cultivator.	Village.	Survey No.	Timber.		Firewood, Tahal, &c.		Object for which cut or removed.	Time allowed.	Village to which to be taken.	Signature of the Officer granting the Permit.
			Number and kind of Trees.	Value.	Number of Carts.	Name of Article.				

APPENDIX A. (*See Rule* 2.)

(*B. G. G.*, 1880, p. 692.) Routes by which alone timber and other forest produce may be moved into or from any of the following districts (namely) :—

1.—*Thána District.*

1. G. I. P. Railway Line.
2. B. B. and C. I. Railway Line.
3. Bombay and Agra Road.
4. Bombay and Poona Road.
5. Panvel and Campooli Road.
6. Bhor Ghát.
7. Kusur Ghát.
8. Sanján Bandar.
9. Sowta Bandar.
10. Apti Bandar.
11. Dysur Bandar.
12. Manor Bandar.
13. Sayeli Bandar.
14. Morambe Bandar.
15. Battan Bandar.
16. Mori Bandar.
17. Joo Nandruk Bandar.
18. Pishi Bandar.

2.—*Kolába District.*

19. Pen and Campooli Road.
20. Páli and Nágothna Road.
21. Dharamtar and Pen Road.
22. Mahád-Waranda Ghát Road.
23. Mahád and Ratnágiri Road.
24. FitzGerald Ghát Road.
25. Alibág and Revas Road.
26. Pimpri Ghát.
27. Alibág Bandar.
28. Durshet Bandar.
29. Amba Creek.
30. Revdanda Creek.
31. Dige Creek.
32. Sávitri River.

3.—*Ratnágiri District.*

33. Ratnágiri-Poládpur Road.
34. Harnai Bandar.
35. Khed—Amboli.
36. Chiplún—Kumbhár Ghát.
37. Amba Ghát—Ratnágiri.
38. Bhowra Ghát.
39. Phonda Ghát.
40. Vengurla—Belgaum.
41. Bánkot Bandar.
42. Anjarle Bandar.
43. Anjanvel Bandar.
44. Jaygad Bandar.
45. Ratnágiri Bandar.
46. Purangad Bandar.
47. Jaytápur Bandar.
48. Viziadrug Bandar.
49. Málvan Bandar.

4.—*Khándesh District.*

50. G. I. P. Railway Lines.
51. Bombay and Agra Road.
52. Taloda-Kukarmunda Road.
53. Shaka-Isarvári Road.
54. All roads upon which Forest Depôts may from time to time be established under Rule 15.

5.—*Násik District.*

55. G. I. P. Railway.
56. Bombay and Agra Road.
57. Bari Ghát Road.
58. Násik-Sangamner Road.
59. Chip Ghát.
60. Kanchan Ghát.
61. Sailbári Ghát.
62. Bábulna Ghát.
63. Nándgaon—Aurungábád.
64. Dhond-Manmád State Railway.

6.—*Ahmednagar District.*

65. Dhond-Manmád State Railway.
66. Násik Ahmednagar Road.
67. Násik-Poona Road.
68. Manmád-Dhond Road.
69. Ahmednagar-Poona Road.
70. Ahmednagar-Aurungábád Road.
71. Akola-Bari Ghát Road.

7.—*Poona District.*

72. G. I. P. Railway Line.
73. Dhond-Manmád State Railway.
74. Málsej Ghát.
75. Brámanwada Ghát.
76. Poona-Násik Road.
77. Poona-Panvel Road.
78. Poona-Pimpari Ghát.
79. Poona and Sátára Road by Kátraj Ghát
80. Poona and Sholápur Road.
81. Nira Bridge Road.
82. Supa-Dhond Road.

8.—*Sátára District.*

83. Poona-Kolhápur Road.
84. Shervat-Waranda Ghát.
85. Bhor-Pandharpur Road.
86. Sátára-Pandharpur Road.
87. Sátára-Bijápur Road.
88. Nira Bridge-Pusesávli Road.
89. Umraj-Pandharpur Road.
90. Amboli Ghát-Sátára Road.
91. Tivra Ghát-Sátára Road.
92. Chiplún-Karád Road.
93. Várna Valley Road.
94. Mála Ghát.
95. FitzGerald Ghát.
96. Koyna River.
97. Verna River.

9.—*Sholápur District.*

98. G. I. P. Railway,
99. Sholápur-Poona Road.
100. Sholápur-Secunderabad Road.
101. Sholápur-Bijápur Road.
102. Pandharpur-Bijápur Road.
103. Pandharpur-Pusesávli Road.
104. Pandharpur-Sátára Road.
105. Pandharpur-Phaltan Road.
106. Sholápur-Karmála and Ahmednagar Road.
107. Bársi-Yedshi Road.

10.—*Surat District.*

108. Tápti River.
109. Bánsda—Bilimora and Bulsár Road.
110. Dharampur and Bulsár Road.
111. Auranga River.
112. Ambika River.
113. Peint, Párdi, and Umarsádi Bandar Road.
114. B. B. and C. I. Railway.

The roads on which the following Forest Depôts are established, *viz.* :—

1. Wagai.
2. Jakria Bari.
3. Bábulna Ghát.
4. Karjai.
5. Amoonia.
6. Kanchan Ghát.
7. Chip Ghát.

11.—*Panch Maháls District.*

115. Dohad-Pate Road.
116. Godhra-Baroda Road.
117. All roads upon which Forest Depôts may from time to time be established under Rule 15.

12.—*Kánara District.*

118. Tinai Ghát Road.
119. Majali Road.
120. Mouth of the Kalinadi River, Sadáshivgad, Kodibág and Kudra Bandars.
121. Kárwár Bandar.
122. Belikeri Bandar.
123. Ankola Bandar.
124. Mouth of the Gangavali River, Munjgooni, Gangavali, and Gundbala.
125. Mouth of the Tudri River, Tudri, Agnashini, Mirjan, Hegde, Dewgi, Mouki and Oupinputtum Bandars.
126. Modeshwar Bandar.
127. Mouth of the Venktápur River (Sherali and Venktápur Bandars).
128. Bhatkal River (Bhatkal Bandar).
129. Gersapa Ghát Road to Talgoopa (Gersapa and Honávar Bandars).
130. Siddápur Road to Sorub *viâ* Warda.
131. Sirsi to Sorup *viâ* Banvasi.
132. Sirsi to Sammasgi *viâ* Dasankop.
133. Sirsi to Hángal and Bankápur *viâ* Pála.
134. Katur to Marguddi.
135. Mundgod to Bankápur *viâ* Sauvali.
136. Mundgod to Turrus *viâ* Wargatti.
137. Yellápur to Hubli *viâ* Kirvati.
138. Haliyál to Dhárwár *viâ* Mavinkop.
139. Haliyál to Belgaum—Madanhali.
140. Unshi Ghát Road *viâ* Supa and Shitovde to Belgaum.
141. Supa *viâ* Jagalbet, A'mod and Hemarge to Khánápur.

13.—*Dhárwár, Belgaum and Kaládgi Districts.*

Every made road maintained from Imperial, Provincial, Local or Forest Funds, and, with the special permission of the Conservator of Forests, any other road.

APPENDIX B. (*See Rule* 25, p. 132.)

Special Rules under Section 41 *of the Act for the Province of Sind.* (*B. G. G.*, 1880, p. 693.)

1. All words used in these rules and defined in Act VII of 1878 (The Indian Forest Act) shall be deemed to have the meaning respectively attributed to them by the said Act.

2. No timber or charcoal shall be brought within the Municipal limits of the cities of Shikárpur, Sukkur, Rohri and Hyderabad except by the roads and landing-places below mentioned (namely) :—

Roads.	*Landing-places.*
Shikárpur, A'bad, Meláni and Ruk road ...	On the Sind Canal at Lakhi Tor.
Sukkur, A'bad, Meláni, and Shikárpur roads.	Sukkur Bandar.
Rohri—Multan road	Rohri Bandar.
Hyderabad—Road over old Phuleli Bridge, road over new Phuleli Bridge, Hajipur road, Gidu Bandar road.	Gidu Bandar, and near Bridge, over the new Phuleli.

3. No person shall remove any timber or charcoal from any Reserved or Protected Forest without a pass signed by the Forest officer in charge of such Forest, or otherwise than in accordance with the conditions of such pass.

Every such pass shall specify—

(1) the quantity and description of the timber or charcoal which it covers.

(2) the name of the person removing such timber or charcoal.

(3) the name of the Forest from which it is removed, and

(4) its destination.

4. No person, who wishes to remove any timber sufficient to make a cart or camel-load from any land which is not included in a Reserved or Protected Forest, shall remove the same from or to any place within twenty miles from a Reserved or Protected Forest, without obtaining from the holder or manager of the land, or if such land be Government waste

land, from the Tapedár of a tapa, a written certificate setting forth the quantity and description of the timber to be removed and the date of its removal.

5. No person shall bring firewood or charcoal, the produce of any land not included in a Reserved or Protected Forest, for sale into the cities of Shikárpur, Sukkur, Rohri or Hyderabad without a pass signed by a Forest Inspector, or a Tapedár, and setting forth the quantity and description of the firewood or charcoal covered thereby.

6. Every person in charge of any timber or charcoal, to which any of the last three rules is applicable, shall retain the pass or certificate relating to such timber or charcoal in his possession so long as the same is in transit, and shall, on demand, produce the pass or certificate for inspection by any Forest or Police Officer, and if such timber or charcoal is being conveyed into the city of Shikárpur, Sukkur, Rohri, or Hyderabad, shall produce the pass or certificate at the stations, called "Guards" established on the routes leading to those cities for examination.

(Notn. No. 5954, B. G. G., 1881, p. 611.)

The Conservator of Forests may, if he thinks fit, at any time, by an order in writing:—

(*a*) authorize any person who is the owner of timber, charcoal or other forest produce, or the agent of any such owner, to issue passes for the moving of any timber, charcoal or other forest produce which belongs to such person or to the person for whom such person is agent, and

(*b*) cancel such authorization.

When the Conservator of Forests authorizes any person under clause (*a*), he shall furnish such person from time to time with authenticated books of blank printed forms of passes.

Every pass issued by a person authorized under clause (*a*) shall specify—

1st.—The name of the person to whom such pass is granted.

2nd.—The quantity and description of timber, charcoal or other forest produce covered by it.

3rd.—The places from and to which such timber, charcoal or other forest produce is to be conveyed, and the route by which it is to be conveyed.

4th.—The period for which such pass is to be in force.

5th.—The officer or person to whom it is to be returned on the expiry of such period, or on the arrival of the timber, charcoal or other forest produce at its destination, whichever event happens the first.

The person authorized to issue passes shall pay for each book of passes such sum as shall from time to time be determined by the Conservator of Forests, and in the event of an order being passed by the Conservator of Forests under clause (*b*) shall at once return to the said Conservator every unused book and every unused portion of any such book then remaining in his possession, and shall be entitled to receive back the amount paid by him in respect of such unused book or portion of book.

No pass issued by any such person after the issue of an order under clause (*b*), and no pass issued by him which is not on a form supplied to him as aforesaid, shall have any validity.

ADDITIONAL ORDERS, OPINIONS, &c.

MEMORANDUM on the Legal Position of Government in respect of Forests and rights to Trees as ascertained by the results of recent Suits, circulated with Government Resolution No. 2493 of 4th May 1881, Revenue Department.

Proprietary right to trees follows the property in the soil.

The great principle which is recognized by the courts in all questions as to rights to trees is that the proprietary right to trees follows the property in the soil. Hence wherever it can be shown that land is the property of Government, the immediate inference is drawn that in the absence of any other circumstance which creates a proprietary right in the trees in the landholder the trees belong to Government.

Occupant under ordinary survey tenure is not proprietor of the soil.

2. Thus in the case of *Govind Purshotam* v. *the Sub-Collector and Deputy Collector of Forests, Kolába*, (C. Bom. H. C. R. 188, A. C. J.) Couch, C. J., said "this is a case between landlord and tenant. There is nothing to show that the tenancy confers any other right than that of occupying and cultivating the land for 30 years, as guaranteed by the settlement. * * * The trees are timber trees growing on Government land, and the proprietary right to the trees is derived from the property in the land." The plaintiff's land had been surveyed and settled before the passing of the Bombay Survey Act of 1865, and Section 40 of that Act did not apply to his holding, because that section had no retrospective effect. It was not contended that he held the land on any tenure or on any special terms, which

implied proprietary right to the trees; and although he relied on Dunlop's proclamation* and on No. 10† of the old Joint Survey Rules, it appears to have been considered that he was not entitled to the benefit of either of these. This case, which is the earliest of the reported ones of the Bombay High Court on this subject, was decided in 1869.

Lessees are not entitled to cut down trees, except under special provisions or circumstances.

3. In an earlier case, that of *Ruttonji Edulji Shet* v. *the Collector of Thána and the Conservator of Forests* (10 W. R. 13, Pr. C.) the Privy Council followed the same principle. The plaintiff in that case held the village of Ghátkopur in the island of Sálsette on a lease granted to him by the Collector of Thána in A.D. 1845, and he claimed the right under that lease to fell unassessed trees in the village, and to apply them to his own use. Their Lordships of the Privy Council said: "At the time when this lease was made, the whole of the land and all the rights connected with the land, subject to such claims as third parties might have upon it, belonged to the Government. The trees upon the land were part of the land, and the right to cut down and sell those trees was incident to the proprietorship of the land. The appellant (plaintiff) therefore * * * must ground his title to these trees and the right to cut them down either upon this, that it is a necessary incident of the lease by reason of the objects of the lease; or *secondly*, upon some positive law; or *thirdly*, under some custom to be incorporated in the lease; or *fourthly*, under the express terms of the lease." And as none of these circumstances, which might affect the general principle, appeared to their Lordships to have been established, they held that the case of the appellant entirely failed.

In all cases the proprietary right to the soil is the first point to be determined.

4. The first question that arises in every case of a disputed right to forests or trees is, therefore, whether the Government is the proprietor of the soil, or the alienee (inámdár) or landholder. In the case of alienated lands the determination of this question sometimes raises difficult issues.

Leading case as to construction of written grants from the State, when proprietary rights are claimed under such grants.

5. The leading case on this point is *Váman Janárdan Joshi* v. *the Collector of Thána and the Conservator of Forests* (6 Bom. H. C. R. 199, A. C. J.). In that case the plaintiff (an inámdár) claimed the right to deal as he pleased with the forests in his inám village on the strength of his original sanads from Angria and the Peshwa. It was held by Melvill, J. (Gibbs, J., concurring) that "in a contest of this kind it is surely most just that such a rule as that by which English Courts of Law are guided in the construction of grants from the Crown, should be applied in the most stringent possible manner; and that the plaintiff's sanads should not be construed as conferring a right to the forests, unless such right be conferred in clear and unambiguous terms," and that the sanads ought to "show plainly and unequivocally that the proprietorship of the land of the village was granted to the plaintiff's ancestor." It was allowed, quoting Westropp, J.'s learned judgment in another‡ case, that sanadi grants in inám, &c., are "generally speaking more properly described as alienations of the royal share in the produce of the land" (*i.e.*, of the Government revenues) "than grants of land." The sanads in question contained no such words as necessarily indicated a grant of the property in the soil. They did not contain the words common in Maráthi sanads, when the property in the soil is granted, *viz.*, *jal, taru, tran, páshán, nidhi, nikshep,* (*i.e.*, water, trees, grass, wood, stone and buried or concealed treasure.) It was therefore held that they conferred only a right to the revenues of the village, and did not operate as an alienation of the soil and therefore gave the plaintiff no right to the timber growing on the soil ("for," said Melvill, "the owner of the land is owner also of the timber which grows upon the land").

The same principle applied to the decision of a khot's claim to forests, when the khot based his title on a sanad.

6. In the decision of *the Conservator of Forests* v. *Nágardás Saubhágyadás*, known as the Pigonde Case (High Court's Printed Judgments for 1875, pp. 325—332), the same principle was followed. The plaintiff in this instance was a khot of the Kolába District, and he claimed a right to the trees and forests of the villages of Pigonde to the extent of his ¼th share in khotki. But although the suit related to a khoti village, the plaintiff based his claim on certain sanads, and the khot, considering that his rights were "laid down with sufficient distinctness in the documents thus propounded by him" did not go into the question of the general rights of khots§ and found that the sanads relied upon did not contain any such words as those above alluded to and were not intended to convey any proprietary right in the soil. This decision has since been confirmed on appeal by the Privy Council (L. R. VII. Ind. App. 55; S. C. I. L. R. 4 B. 264). In the judgment of Westropp, C. J., there is the following passage which states the opinion of the Court in very clear language:—

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*See *infra*, para. 17. †See *infra*, para. 18

‡*Krisnaráo Ganesh* v. *Rangráo* (4 Bom. H. C. R. 1, A. C. J.)

§ But although the general rights of khots were not considered in this case, Melvill, J., referring in his judgment in *the Collector of Ratnágiri* v. *Raghunáthráo bin Rámájiráo Sarve* (H. Ct.'s Printed Judgments for 1875, p. 324) to the decision therein said: "It has been decided in Regular Appeal No. 15 of 1869 (and in this decision we concur) that a khot has no right to cut timber, either as a khot, or by virtue of Mr. Dunlop's proclamation, unless he can prove the grant of a proprietary title in the land of the village."

"In *Vykunta** v. *the Government of Bombay*, decided by my brother West and myself on the 1st May last, we pointed out that when the State grants a village *eo nomine*, without further words, the proprietorship in the soil does not necessarily, or even ordinarily, pass to the grantee, and that the latter only takes thereby the royal share in the produce of the village, or so much of that share as the sanad may purport to grant. Mr. Mountstuart Elphinstone is very clear on that point (see his History of India, 4th Edition, p. 74, note)."

There is no part of the judgment in the Kánara Land Assessment Case which states this point in these very distinct terms, but the parts of that judgment to which the Chief Justice has referred are stated by himself in a marginal note to be "12 Bom. H. C. R. App. pp. 1, 33, 34 and especially 39, 40."

Limitations of the rigid rule of construction of written grants laid down in the leading case.

7. In this judgment in the Pigonde Case, Westropp, C. J., further observed, with reference to the rule of construction of grants from the Crown that he "adopted the rule laid down authoritatively on behalf of Her Majesty's Privy Council by Sir John Coleridge in *Lord* v. *the Commissioners of Sydney* (12 Moor P. C. 497) that although their Lordships 'did not intend to differ from the old authorities in respect to Crown grants,' yet they held that 'upon a question of the meaning of words, the same rules of common sense and justice must apply whether the subject-matter of construction be a grant from the Crown or from a subject,' and that 'it is always a question of intention to be collected from the language used with reference to the surrounding circumstances.' If those guides to a satisfactory construction fail, but not otherwise, the ancient rule that 'if the king's grant can enure to two intents, it shall be taken to the intent that makes most for the king's benefit ought to be applied." In *Ráoji Náráyan Mandlik* v. *the Mámlatdár of Ratnágiri* (I. L. R. 1 Bom. 523), it was held that "if words are employed in a grant which expressly or by necessary implication indicate that Government intends that so far as it may have any ownership in the soil that ownership shall pass to the grantee," it is not permissible to anybody to say that the ownership did not so pass, "unless there are in the grant such detailed provisions as show that such words are limited in their operation."†

Where there has been an adjudication of title, the grantee's title depends, not upon his original sanad, but upon the terms of the adjudication.

8 These are all the important decisions hitherto passed on the question of the construction of sanads or other written grants. But it is important to note that it has been ruled that where there has been a formal adjudication of title, the right of the grantee depends, not upon the terms of the original grant, but upon the meaning of the order of adjudication. Thus in *Vásudev Pandit* v. *the Collector of Poona* (10 Bom. H. C. R. 471), West and Nánábhái Haridás, JJ., held that the plaintiff's title rested, not upon the sanad granting the inám, but upon the construction of the decision passed by the Inám Commissioner under Rule 1, Schedule B. of Act X of 1852, for continuing the village; and the words in the decision "*báki darobast gáv chálváva*" (let the whole remainder of the village continue) were construed as "an adjudication of all proprietary rights free from exceptions of any kind, except those specified." Original sanads which have of late years been superseded by summary settlement sanads would also, no doubt, upon a similar principle, be left out of consideration; the title of the inámdár be held to depend entirely upon the meaning of the latter sanads. These summary settlement sanads continue inám villages and lands for ever as "the private property" of the holders, and it was held in the last-named case (10 Bom. H. C. R. 471), that it was an invasion of the right of an inámdár whose lands had been recognized by Government as his private property to quarry stone or take sand from those lands without his permission or authority. What is there said of quarrying stone or taking sand would apply equally to cutting timber, all these rights being incidents of the general proprietorship of the soil.

Rules for investigation of claims not based on written grants.

9. Alleged proprietary titles are not always based upon written grants. In all cases, however, the spirit of the above rule of construction of grants would, no doubt, be observed in weighing the value of any evidence that might be adduced against the Government. In the Kánara Land Assessment Case (12 Bom. H. C. R. 214, 215, App.) it was said that "if it be the duty of the Court not to enforce the written grant of the Crown unless it be clear and unambiguous, it is not too much to say that at the very least, it is equally incumbent on the Court to ascertain beyond doubt that the Crown has intended to part with its prerogative to which it has succeeded by right of conquest, when the evidence offered in

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*This is the celebrated Kánara Land Assessment Case reported in 12 Bom. H. C. R. App. 1—224.

†The law officers of the Government of India have recently considered the applicability in this country of the English rule for the construction of Crown grants in connection with the question of the right of Government to mines and minerals. They hold it to be inapplicable (1) where grants have been made in consideration of a money payment, and (2) where the grants have not been made in exercise of a prerogative (see Government of India's letter to Secretary of State, No. 7, of 1st September 1879, para. 4, published in Supplement to *Gazette of India* of 22nd May 1880, p. 864).

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proof of such an alienation is not any grant or sanad or any entry in a Government book * * * but is sought to be spelt out against the Crown from the acts and statements of its officers."

Property in the soil of cultivated land of ordinary landholders.

10. The right to trees in lands not held upon any inám tenure but under one or other of the ordinary ancient tenures of the country depends upon the same question, *viz.*, whether the property in such lands belongs to the sovereign power of the State or to the landholder. This question was very thoroughly considered in the Kánara Land Assessment Case. After a full review of the authorities, Westropp, C. J., and West, J., arrived at the conclusion in that case, that "the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus, and is not recognized by modern Hindu lawyers as exclusive or incompatible with individual ownership." (12 Bom. H. C. R., 53, App.). Under the Muhamadans also the holders of cultivated lands were shown to have been regarded as the owners thereof (*ibid*, 53—57). Proprietorship in the soil was expressly recognized as existing in the bhágdári and narwádári villages in parts of Gujarát (*ibid*, p. 43)* and it was so strongly stated that there is reason to believe that the *mirási* tenure in the Bombay Presidency carries with it private property in the soil (*ibid*, pp. 46-7, 43, 50, 51 and 70) that there is little doubt that if the point had been directly in issue, it would have been held that mirasdárs also are proprietors† of their lands, just as it was held (*ibid*, p. 1, head note) that the *mulavargdár* in Kánara "enjoys an hereditary and transferable property in the soil."

Proprietorship of waste lands belongs to Government.

11. But whatever may be the rights of rayats in respect of their cultivated lands, it is now clearly established that waste lands under the ancient Hindu and Muhamadan laws, as well as under the British law now in force in this Presidency, belong to Government. This was clearly laid down in the Kánara Land Assessment Case (12 Bom. H. C. R., 57-9 App.), in Pendse's Case (High Court's Printed Judgments for 1879, p. 276), which will be more particularly referred to in the next paragraph, and in the Kánara Forest Case (I. L. R. 3 Bom. 583-4, 542 and 546-7). The two last-named cases are the two important suits in which respectively the rights of Government to trees in *varkas* lands in the Konkan and in *kumri* lands in Kánara have been recently contested.

Leading case as to right in *varkas* in the Konkan.

12. In *Vásudeo Bháskar Pendse* v. *the Collector of Thána* (High Court's Printed Judgments for 1879, pp. 274—287) the plaintiff sued "to establish his rights as against the Government to cut down all trees growing upon certain lands held by him in the Narsápur or Karjat táluka of the Thána district." He caimed a proprietary right in his lands by virtue of his being a *sutidár*, and he alleged that a *sutidár* in the Konkan was equivalent to a *mirásdár* in the Deccan. Melvill and Kemball, J.J., who decided the case, felt "no doubt that there is such a tenure as a *suti* tenure," but were unable on the imperfect evidence before them to determine "whether a *sutidár* in the Konkan has the same proprietary title in the soil of his estate as a mirásdár in the Deccan."‡ But they deemed it unnecessary to decide this point,§ because (owing to a mistake in the conduct of the suit in the District Court) the plaintiff's right to the trees in his rice fields had been conceded by Government, and it was clear that it "was only in respect of plaintiff's rice fields that any *suti* tenure could be set up," the "*varkas* land never being entered in the Government accounts as *suti*, but being carefully distinguished from it."

Varkas land held to be waste land.

13. The judgment of the High Court in this case was therefore limited to a consideration of the respective rights of Government and of the plaintiff in his *varkas* lands. *Varkas* is defined in the judgment as being "land on which, in accordance with the mode of cultivation in use in the Konkan, the cultivators cut grass, brushwood and branches of trees to be burned as manure (*rab*) on their rice fields. This and not cultivation is the use to which *varkas* land is ordinarily appropriated; but patches of such land are from time to time used

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* Its existence in talukdári villages is recognized by section 20, Bombay Act VI of 1862, as regards villages which have been managed by the Tálukdári Settlement Officer, and a Government Resolution extended the same recognition to tálukdári villages which did not come under management.

† In Pendse's case (Printed Judgments for 1879, p. 275) Melvill and Kemball, J.J., said: "If he (the plaintiff) were a mirásdár we should probably on the authority of Mr. Mountstuart Elphinstone (*a*) hold that he was proprietor of his estate and of all trees growing upon it."

(*a*) Revenue Selection, Vol IV., pp. 159, 160.

‡ The plaintiff also made some attempt to establish his proprietary title on the ground of his being a "*pándharpesha*;" but the Court held that *pándharpeshas* had no greater proprietary rights than any other occupant, the only privilege they enjoyed being a certain remission of the Government assessment, and even that privilege had been discontinued since A.D. 1864.

§ In a later case, however, between private parties, *Wáman Bhiwáji* v. *Vináyak Rámchandra Lakshmanji* (High Court's Printed Judgments for 1879, p. 429) the same Judges said that "*sut*" is a "term which may be taken to be equivalent to the '*mirási*' in the Deccan, and to mean 'and of which the holder is proprietor subject to the payment to Government of a certain defined share of the produce.'

for raising scanty crops of inferior grain." The important points determined with respect to such lands are:—

(1) that *varkas* lands must be regarded to all intents and purposes as waste lands and, therefore, according to the settled law concerning waste lands, belong to the State;

(2) that neither the use, with the acquiescence of Government, of defined portions of such lands for obtaining manure, nor the occasional and sporadic cultivation for several generations of patches of such land can be held to create a proprietary title.

Kánara Forest Case.

14. The claim in the Kánara Forest case (I. L. R., 3 Bom. 452—785) although of very much greater magnitude in its extent, was very similar in its nature to the above. Kumri cultivation consists in the clearing and cultivating of spots in the jungles or forests, which after a season or two are again abandoned for other similar spots. The judgments recorded by Green and West, J.J., in the case are extremely lengthy and complicated, and as the suit related principally to questions of a purely local nature, they have been summarized in a separate memorandum. But the following points of general applicability may be noted as having been determined in it (*viz.*):—

(1) That under British rule the principle from which we must start is that waste lands belong to Government (*ibid*, p. 584).

(2) That the levy of a tax does not necessarily make a proprietor, but that to levy money from a ryot on account of any land implies a knowledge that he is there and in some way beneficially connected with it (*ibid*, pp. 578, 586).

(3) That for whatever purpose land may be used, tacit acquiescence by Government in its occupation wherever definitely invited and plainly manifested, has the effect of creating decisive test of ownership (*ibid*, 578-79).

(4) That mere temporary occupation of spots in a forest "without appropriation of any spot for more than some months or a year" is not necessarily a property or possession (*ibid*, 581).

(5) That as there must be certainty in a grant as to the area conferred, so there must be certainty as to area, or at least as to the identity of the object occupied, if the occupation is to raise the presumption of a grant, or of acquiescence in a definite occupation. There must be the "essential elements of possession, a fixed, a definable, an exclusive occupation, * * * present to the perception of the parties" (*ibid*, 585).

(6) That the acquiescence of Government in the levy by another person of fees for the cultivation of land within limits which that person claimed as his own, and the fact of Government's refraining from levying such fees direct and assessing such person's income from the fees levied by him, must be held to mark Government's recognition of such person's ownership (593, 636).

(7) That "a property in the soil must not be understood to convey the same rights in India as in England." Under one system an ownership may subsist unimpaired side by side with a limited right in exercise of which acts may be done which under another system would be regarded as contradictions of any ownership (*ibid*, 715).

Prescriptive or customary rights to trees in Government lands impossible.

15. Failing proof of absolute ownership of the soil, an attempt is sometimes made to establish a prescriptive or customary right to the trees on Government lands. This however, it has now been ruled, cannot be done. In *Váman Janárdan Joshi* v. *the Collector of Thána and the Conservator of Forests* (6 Bom. H. C. R. 201, 202, A. C. J.), Melvill, J., held (Gibbs, J., concurring) that the plaintiff could not acquire by prescription a right to dispose as proprietor of all timber growing on another's land. Again in *Vásudeo Bháskar Pendse* v. *the Collector of Thána* (High Court's Printed Judgments for 1879, p. 278) the same Judge (Kemball, J., concurring) said, it is clear upon authority that if the soil be the property of another, the plaintiff cannot, either by custom or prescription, acquire an unlimited right to cut down trees growing upon that soil. "A *profit a prendre* in another's soil cannot be claimed by custom, however ancient, uniform and clear the exercise of that custom may have been" and "an unlimited *profit a prendre* on another's soil cannot be claimed by prescription."

But partial rights of individuals in or over trees not incompatible with the general ownership of Government and *vice versâ*.

16. West, J., held to the same effect in his judgment in the Kánara Forest Case (I. L R., 3 Bom. 640-641), but he pointed out that "the right to cut timber is" nevertheless "separable as a legal notion, from the residual ownership with which it is usually joined in England; and in this country the reserve of the forests or of timber trees of special value by the State in a grant of land is a general and well understood incident of the estate thus granted. In Gujarát it is not unusual for the owner of trees and the owner of the soil in which they grow to be different

persons. This custom may have sprung from the Mahomedan law. It does not necessarily follow, therefore, from the cutting of trees by the Government that the Government asserting an unqualified ownership of the soil, extruded every private claimant." That particular rights over, or in respect of, the trees in certain lands may exist without carrying with them an absolute right of property over the whole is illustrated in the Pigonde Case (High Court's Printed Judgments for 1875, p. 332), in which the Chief Justice said: "A practice for the khot to charge fees to other persons for cutting firewood does not, in my opinion, afford any solid ground for contending that he had any right to teak or other valuable trees. It might as well be contended that a right to firebote in England conferred upon the tenant a right to cut down oak and other valuable trees."*

Effect of Dunlop's and Harris' proclamations.

17. Both in the South Konkan and the Kánara Districts, certain proclamations (in the South Konkan, Dunlop's proclamation of A.D. 1824, and in Kánara, Harris' proclamation of A.D. 1823) are relied upon by the landholders as giving them rights to timber. The two proclamations which are very similar are to be found quoted at 8 Bom. H. C. R., 2 A. C. J. and I. L. R., 3 Bom. 728, respectively. With respect to the former it was admitted for the plaintiff in the Pigonde Case and the principle of the admission was endorsed by the Court (see Kemball, J.'s judgment., p. 327) that unless a khot was proprietor of his land, it neither conferred upon, nor confirmed to, him any rights in the timber trees; and it was also held in the Kánara Forest Case that the latter related only to timber in proprietary estates (I. L. R., 3 Bom. 690-691). In *the Collector of Ratnágiri* v. *Venkatráo Náráyen Sarve* (8 Bom. H. C. R., 1 A. C. J.), it was argued on behalf of Government that Dunlop's proclamation had been cancelled by a subsequent Government notification issued in 1851; but it was held "that Government cannot, by issuing a subsequent proclamation, resume a grant made by a previous proclamation, inasmuch as it cannot, any more than a private person, without the consent of the donee, revoke a gift actually made."

Other special grants and recognitions of private rights to trees.

18. In *Vásudeo Bháskar Pendse* v. *the Collector of Thána*, when it had been held in the first place that the *varkas* lands in dispute were the property of Government, and therefore that the trees standing on them were *primâ facie* also the property of Government, the plaintiff endeavoured to establish his title in virtue of "special grants and recognitions made by Government from time to time." The decisions recorded by the Court upon the various points thus raised are only applicable to the district of Thána, and some of them, perhaps, to certain tálukas only of that district, but as indicating the nature of the questions which arise in such cases, it may be useful briefly to state them here. The Court held that—

(1) in the Thána district, previous to the introduction of the Revenue Survey—

(*a*) the felling of teak trees was universally prohibited and the right of Government to do this was never questioned;

(*b*) the right to all other trees standing upon, or to be afterwards planted upon their own lands was conceded to the occupants;

(*c*) *varkas* lands were treated as Government waste and not as private lands;

(*d*) the right of cultivators to take "*ráb*" from *varkas* lands for manuring their rice fields was recognized; but

(*e*) they were prohibited from felling trees of certain specified descriptions, although permitted, as a favour, to cut common wood for domestic use but not for trading purposes:

(2) there is considerable confusion about the introduction of the Joint Survey Rules into the Konkan, but Captain (now Colonel) Francis' order for introducing them must either be held to have been unauthorized and invalid, or else that order and a

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* With reference to the rights of khots to timber and to land in their villages, the recent decisions of the High Court reported at I. L. R., XI B. 680 and I. L. R., XII B. 535 required to be noticed. The head-note in the first of these two cases contains the following:—"The mere fact of the defendants being vatandár khots did not make them proprietors of the cultivated land in the village; proprietary rights are not essential to the conception of a khotship; in levying *thal* on the lands tilled, the defendants did not assert, they certainly did not establish, a proprietary right to the soil." The judgment in the case reported at I. L. R., XII B. 535 contains the following passages: "(1) In the absence of a sanad expressly granting it, the ownership neither of the soil nor of cultivated or uncultivated land passes by the grant of the vatandár khotship. (2) The grant of the vatani khot did not make the khot a perpetual tenant of Government in respect of all lands in the village except dhára lands. *Held* on the authority of Tajubai's case (3 B. H. C. R. 132, A. C. J.) and Ramchandra Mahajan *v.* the Collector of Ratnájiri (7 B. H. C. R., A. C. J., at p. 43) that a permanent relationship was created between the Government and the khot which could not be interfered with as long as the settlement of 1788 was in force except with the khot's consent, and, therefore, that Government could not when the pahání of 1788 was in force, withdraw a thikán (included in that pahání of the village) from the khot's cultivation. (3) In the absence of evidence to show that the right to the jungle produce was intended to be reserved to Government, the khot was entitled to cut down brushwood whether as a source of revenue or for the purpose of bringing the land into cultivation. (4) The Khot had no right to cut timber in forest and uncultivated lands whether by virtue of his *khotship* or Dunlop's proclamation.

subsequent order issued by him for modifying Rule X.* must be taken as constituting a single proceeding, so that either Rule X. was not introduced into the Konkan, or it was introduced with a reservation of the rights of Government in certain trees;

(3) the present intentions of Government and of the Legislature appeared from Government Resolution No. 6646, dated 27th November 1875, and from the Bombay Land Revenue Code Bill (*a*) to be to reserve teak and blackwood trees only, and therefore that the plaintiff's title to cut trees in the *varkas* land of which he is survey occupant extends to all trees except these;

(*a*) See section 40 of the Revenue Code, which has since become law.

(4) as regards *varkas* land in the plaintiff's occupation but not included in any survey number, he is not entitled to cut down any trees.

Applicability of section 40 of the Revenue Code.

19. In unalienated lands which are not the property of their holders and which have been subjected to a survey settlement, the rights to trees are now defined by section 40 of the Bombay Land Revenue Code.

MEMORANDUM BY THE L. R.—SECTIONS 4 AND 9 OF THE FOREST ACT.

Two questions have been submitted to Government for decision:—

First—Whether any land other than forest land or waste land which is the property of Government or over which the Government has proprietary right or to the whole or any part of the forest produce of which the Government is entitled can be constituted a reserved forest under the provisions of Chapter II. of Act VII of 1878?

Secondly—Whether the rights referred to in section 9 of that Act include right of way or right to a water-course?

2. On the first question it is quite clear that Chapter II. relates to forest land or waste land described in section 3 and to no other land.

3. Section 3 specifies what land it shall be lawful for the Government to constitute reserved forest; namely, forest and waste land belonging to Government. The words "any land" in section 4 cannot include any other land than what it is lawful for the Goverment to constitute a reserved forest. The Government cannot notify cultivated lands, whether alienated or unalienated, as forest reserves, except by first acquiring all the rights of ownership and converting them into waste lands. The object of section 10 is to meet the case of any claim that may possibly be made of private ownership in or over such forest land or waste land or any portion thereof as is notified under section 4, and to empower the Forest Settlement Officer to exclude such land from the proposed forest or obtain a surrender of it from the claimant or acquire it under the Land Acquisition Act, 1870.

4. With regard to any land other than forest land or waste land belonging to Government, if required for the purposes of the Forest Act, 1878, section 83 provides that it can be treated as required for a public purpose and dealt with under the Land Acquisition Act, 1870. When such land has been so acquired, it becomes, with all rights in or over the same, public property, subject always to the right of way and all other rights of the public or of individuals legally subsisting. If Government does not dispose of it in any other way or for any other purpose, it becomes waste land belonging to Government, and may be constituted a reserved forest in the manner provided in Chapter II. of the Forest Act.

5. On the second question right of way and right to a water-course are included in the rights referred to in section 9.

6. The Forest Settlement Officer is appointed to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within the specified limits of the proposed forest, and to deal with

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* No. X. of the Joint Survey Rules was as follows:—

"Proprietors of inám, judi and mirás lands, having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein, *and also holders of Government fields, of which they have been in uninterrupted occupancy from a period anterior to the age of the trees, or for a period of twenty years, or who have purchased the trees under the provisions of Rule* 2."

Captain Francis' order for modifying this rule in the Konkan was as follows:—

"Clause 10 provides that the proprietor of a field has the right to cut down trees growing in the field. Such right must be understood to exist in this petha: but this clause does not authorize the felling of trees which are under the conservation of Dr. Gibson, the Conservator of Forests; they should be preserved as hitherto."

the same as provided in Chapter II. He has, therefore, two principal duties to attend to; first, to make a proper inquiry; and, secondly, to dispose of the claims in accordance with the provisions of the said chapter.

7. His enquiry is to be made not only into all claims duly preferred, but he is to search for the *existence* of any rights which are not claimed, by examining Government records, taking the evidence of persons likely to be acquainted with any such rights, and personally surveying and mapping out the proposed forest.

8. The rights so contemplated are classed as follows:—

(1.) Right of pasture.
(2.) Right to forest produce.
(3.) Right of way.
(4.) Right to water-courses.
(5.) All other rights in or over any land.

9. Section 10 provides how the Forest Settlement Officer shall deal with the last class of rights.

10. Sections 11, 12, 13, 14 and 15 provide how the Forest Settlement Officer shall deal with the first and second classes of rights.

11. The third and fourth classes relate to certain incorporeal hereditaments or easements attaching to the land which is the property of Government. It is obvious that when once after due inquiry a claim to any such right is admitted, or when once the existence of any such right is discovered, the fact of the right is sufficiently established.

12. Where no claims are preferred in respect of these rights, it is undoubtedly the duty of the Forest Settlement Officer not to overlook their existence and not to neglect to make every possible enquiry to ascertain whether any such rights do exist. It depends on the Forest Settlement Officer to prevent any hardship occurring to villagers living near proposed forests in respect to the use of public pathways or of water-courses in the forests; and it is not likely that any such rights, where they are clearly defined and ascertainable, will become extinct through the operation of section 9. Any right of this description which is so obscure as not to be claimed at the proper time, or to come to knowledge after careful search has been made, cannot be of much worth.

13. It is clearly the intention of the Legislature that all existing rights of way or to water-courses should be carefully ascertained and preserved intact unless it is found convenient to stop such ways or water-courses and substitute others for them, as provided by Section 24.

14. Any person who shall enter a forest except by such public or private way will be a trespasser. An unlawful entry on another's land is a trespass; but it is not an offence punishable under the Penal Code, which only contemplates the offence called "criminal trespass," *i. e.*, trespass with intent to commit an offence or to annoy the person in possession. But unlawlul entry on a reserved forest is a forest offence punishable under the Forest Act, 1878. (G. R. 3112 of 31st May 1881.)

(RULES FOR THE ASSIGNMENT OF LAND FOR KUMRI CULTIVATION.)

(1) The period of fallow should never be less than ten years after cultivation for two.

(2) Personal inspection should annually be made both by the Collector and the Assistant Collector with a view to ascertaining that the prescribed limits of the Kumri assignment in each case have not been exceeded.

(3) Kumri assignments should, as far as possible, never be allowed within 100 yards of streams running as late as December, and on the upper third of the slopes of hills. (See G. R. 5319 of 9th August 1882.)

Sánad to be examined before Inámdár is allowed to fell.

It is advisable that the sanad should be examined in every case before forest is allowed to be cut down in inám villages. (G. R. 6457 of 29th October 1881.)

Rights of Government on Trees in Waste Land.

Enjoyment of the produce of trees on Government waste land, by custom or under a lax system of administration, does not amount to a recognition by Government of a right which the Forest Department must respect.

The exception in section 41 of the Land Revenue Code in favour of private rights extends to lands set apart for forest reserves under section 38. (G. R. 6550 of 3rd November 1881.)

Extract of Instructions as to Forest Settlement.

Under section 13 of the Forest Act a Forest Settlement Officer should record, in respect of a right admitted, the extent of such right, and then, if he determines to proceed under section 14, clause (c), he should record an order continuing the right and declaring it to be exercisable only at such seasons and within such portions of the forest and under such rules as the Local Government may from time to time prescribe.

The Act distinctly provides that the Settlement Officer shall determine the extent of the rights in each forest under settlement, and shall then consider whether, having regard to the maintenance of the forest, they can be continued. If so, he arranges for their continuance; otherwise he commutes the rights. If he continues a right, the Local Government can make rules to regulate its exercise, but these rules must not substantially detract from the rights of either the claimant or the State. Such rules are not intended to define the legal status of rights claimed, but only to control the exercise of rights admitted, for the power to make such rules is limited, and does not extend to fixing the number of cattle which a right-holder may send into the forest, or the amount of produce he may extract. An order admitting a claim to rights of pasture or forest produce cannot therefore be limited by any declaration in rules framed under section 14 (c) of the Forest Act.

It is of vital importance that only such rights should be recorded, under sections 11 and 13 of the Forest Act, as are proved to exist, and that they should be recorded only to the extent thus proven.

There is nothing in the Forest Act that justifies the Forest Settlement Officer in providing for the prospective wants of non-existing settlers or of a future and possibly more numerous generation; nothing that permits the concession by a Forest Settlement Officer of more extensive rights than those to which he finds claimants to be entitled at the time of settlement. The rights claimed must be actually existing rights, vested in an individual or person, or in a definite body of persons like a number of co-owners or a village community.

They may be rights in gross unconnected with the ownership of immoveable property (houses or land), or they may be rights attached to the ownership of such property. They may be rights enduring only for a certain period or for the life of the person in whom they are vested, or they may be rights which will pass to the heirs of that person, or pass in perpetuity with the property to which they are attached. But they must be existing and vested in some person or body of persons who can claim them at the time of settlement.

If the Forest Settlement Officer is permitted to provide for indefinite prospective wants of an indefinite prospective number of right-holders, he may be providing for the gradual absorption and final extinction of the actually existing rights of the State.

A Forest Settlement Officer goes beyond his province in providing for rights in favour of *all the inhabitants* of the village, present and future, including persons who could not claim as successors to any persons now entitled, but only by virtue of some original and independent right acquired simply by the fact of their becoming inhabitants. The rights should be recorded either in favour of the several individuals composing the village or of the village community as a body in possessson of the village lands.

There might possibly be a local customary law which would confer a right on every person directly he became an inhabitant, and it is true that the recent tendency of the English law courts has been to recognize such customs more freely than would have been the case several years ago. It would, however, be difficult under any circumstances to establish a custom giving a right of a nature of a *profit à prendre*, and the Forest Act not only makes no provision for rights to arise in future in this way, but even bars the accrual thereof in section 22. Whenever, therefore, rights have been recorded in the names of individuals, and it is desirable that new inhabitants of a village should enjoy the same

advantages as established right-holders, this can be effected as a matter of favour by executive arrangements, but no provision should be made for it under sections 13 and 14 of the Forest Act.

' It is conceivable that a claimant might establish a right of such a nature that it would probably in course of time entitle him to larger benefits from a forest than he was entitled to at the time of settlement. For instance he might show that he was entitled to pasture for *all* cattle employed by him in the cultivation of his land, and he might be in possession of extensive waste land, which he was gradually bringing under cultivation—a process which of necessity would tend to increase the number of his cattle. Here the Forest Settlement Officer, though dealing only with "actually existing rights," would also have to take into account "prospective wants." In such a case, which could probably only arise when the right claimed is based on a former grant, revenue settlement or sanad, it would seem reasonable to admit the rights of the proprietor within a maximum, which should be determined with reference to the rights actually enjoyed by him at the time of making the record and to the potential capabilities of the forest. But a maximum should not be imposed, unless there is a clear necessity for its imposition, and, in such cases, it should be liberally fixed.

It cannot be admitted that a prescriptive right over any forest can be acquired by the continuous purchase of its produce from the owner at market rates, the element of adverse enjoyment and of enjoyment as of right, on which prescription rests, being wholly wanting. A Forest Settlement Officer should not therefore burden Government property with legal obligations, which may prove embarrassing and may prevent the Government from making the best use of its forests.

Whilst, however, desirous that all settlement records of legal rights should be kept within the strictest limits in order to prevent any unnecessary future embarrassment, the Government of India freely admits that every State forest should be worked in such a manner as to secure the greatest possible benefit to the people of the country, and, in preference, to those living in the vicinity of the forest. (G. R. No. 934, 4th February 1886, R. D., circulating No. 48 F. from the G. of I., R. D., dated 16th January 1886.)

Section 3.—Forest Land and Waste Land.

Memo. by L. R. :—The land which section 3 of the Forest Act (VII of 1878) empowers Government to constitute a 'reserved forest' is precisely the same as the land which under section 28 of the Act may be constituted a 'protected forest,' viz., 'forest land or waste land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled.'

"2. Land 'which has been given out for cultivation' is certainly not 'waste land.' 'Forest land' is not defined in the Act, and it is a term not easy of definition, but land which has been given out for agricultural purposes on the ordinary survey tenure, or land which the holder thereof has in any way acquired a right to hold for survey purposes on such a tenure, cannot, I think, properly be called 'forest land, even though it was forest land before it was so given out, and even though Government have reserved their right to the trees, or to some of the trees growing therein. This was in effect the opinion in which Government concurred in their Resolution No. 3112 of 31st May 1881, and it is equally valid whether the proposal is to constitute such land a reserved or a protected forest.

"3. But where land which was originally waste and more or less overgrown with forest trees and jungle has been given out merely for grazing or for dalhi cultivation under conditions restraining the cutting of the forest trees, as is the case, I believe, with much warkas land in the Kolába District, such land is, in my opinion, still forest land and may be dealt with by Government under either section 3 or section 28 of the Act. But care would have to be taken not to include any such land as that described above in paragraph 2." (G. R. No. 904, dated 2nd February 1883, R. D.)

Seetion 15.—Commutation and its effect.

The object of Chapter II of the Forest Act is to enable the State to maintain certain areas permanently as reserved forest, and with this view an elaborate procedure is prescribed. The Forest Settlement Officer hears claims to rights, and, under section 13, makes a record of such rights as he admits. Then under section 14, 'having due regard to the maintenance of the reserved forest' he proceeds to pass such orders as will ensure the continued exercise of the rights so admitted. If, however, he finds it impossible, having, again, 'due regard to maintenance of the reserved forest,' to arrange the matter suitably, he can, under section 15, commute such rights, either by money payment, or by grant of land, 'or in such other manner as he thinks fit.' The Government of India is advised

that the commutation of rights thus provided for must be of a permanent, and not of a temporary, character, and that, in fact, it must be of such a nature (in whatever manner it may be made) as to absolutely extinguish the right which the Forest Settlement Officer has admitted, but the exercise of which cannot be allowed with due regard to the maintenance of the reserved forest. It may be observed that the words 'other manner,' in the expression "in such other manner as he thinks fit," simply refer to the nature of the consideration which the right-holder is to receive for the commutation of his rights, and imply that it must be a mode *Ejusdem generis* with payment of a lump sum or a grant of land. (Letter from Under Secretary to the Government of India, Revenue and Agriculture Departments (Forests) No. 893, dated 23rd September 1887.)

Opinion of the Advocate General.

"I think that the commutation of rights provided for in section 15 of the Act was intended to be, and according to the true construction of the terms of the section is, an extinguishment of the right commuted for the consideration mentioned, just as by section 10 an absolute surrender (sub-clause 2), or complete and permanent acquisition (Sub-clause 3) of the rights dealt with by that section, are provided for. This view is, to my mind, supported by the terms of section 26, which appear to assume the operation of the Act on forest rights to be limited to extinguishment or absolute acquisition of the same, and by the fact that nowhere in the Act is there any trace of an intention that forest right should, under its provisions, be suspended or temporarily taken up by Government. The expression at the end of section 15, 'in such other manner as he thinks fit,' I construe as having reference only to the consideration to be paid or given for the right commuted, and I am of opinion that these words cannot properly be interpreted as in any degree amplifying or affecting the meaning of the word 'commuting' which must be read in its ordinary signification of 'exchanging,' out and out, and permanently.

"The same objection seems to me to apply to the amended rule suggested by Mr. Fulton in his report, No. 1356* of 1887, dated the 10th October 1887. I think that an arrangement such as is contemplated in that amended rule would be, *not* a commutation under section 15, but a contract between Government and the right-holder altogether *dèhors* the section, and it appears to me that it would be inappropriate and misleading to officers carrying out the Act to provide for such an arrangement in a rule purporting to be made under section 15, for the guidance of officers 'commuting' (*i.e.* permanently acquiring) rights under that section. If in particular cases such arrangements are deemed desirable, and can be come to with the right-holders, they ought, in my opinion, to be embodied in separate and independent agreements, outside and apart from the Act. Such an agreement could, I apprehend, be made in any case, either in the first instance in lieu of a commutation under Section 15 or subsequently to such commutation by way of novation or substituted contract, but under no circumstance could a contract of this kind be deemed to be made under or by virtue of section 15, and having regard to its terms I think the special sanction of Government would be requisite for the making of every such contract.

"I see no reason why a cash allowance, either permanent or temporary and terminable, at a fixed period or on the expiry of one or more lives, should not form the consideration for the commutation (*i.e.* permanent acquisition) of rights under section 15. The granting of such allowances, either permanent or temporary, in lieu of the rights commuted, would, I think, be within the scope of the words 'in such other manner as he thinks fit,' at the close of the section, and no rule appears to me to be necessary to warrant the adoption of this course.

"There can, I venture to think, be few forest rights, for the permanent acquisition (commutation) of which allowances, terminable at periods more or less remote, according to the nature and value of the rights, would not be adequate compensation." (Quoted G. R. 8524, dated 15th December 1887, R. D.)

Engagement of Counsel in enquiry into Claims under the Indian Forest Act.

RESOLUTION.—In the enquiry into all important claims on which the Forest Settlement Officer will pass orders under sections 10, 11, 14 or 15 of the Forest Act, or in regard to which an appeal is preferred under section 16, the Forest Officers who are responsible that the interests of Government are adequately represented, should apply under the standing rules for the advice and assistance of the Legal Remembrancer who will make proposals to engage Counsel as he may think necessary. The Collector who is deputed to hear appeals under section 16 should not, of course, take part in these proceedings.

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* The rule suggested in the Report referred to was as follows:—

"With the consent of the party interested the Forest Settlement Officer may grant an annual allowance in commutation of rights under section 15 of the Forest Act, provided that in such case he shall always direct that the allowance shall cease if the right shall at any time be restored and shall, before accepting such consent, explain this condition to the grantee."

The Forest Settlement Officer who exercises in these enquiries the powers of a Civil Court, cannot with propriety take part in communications relating to the evidence to be collected for the defence. Any decision of the Executive Government against the admission of forest rights is simply a statement of the position which Government propose to defend if it is assailed in the Forest Settlement Officer's Court and is in no way intended as an instruction to the Forest Settlement Officer in his judicial capacity. This should be obvious, but the matter is plainly stated here because it has sometimes been misunderstood. (G. R. No. 7829, 26th September 1885, R. D.)

Sections 9 and 15 inapplicable to Protected Forests.

Memo. by L. R.:—"It is not competent to Government to extend the provisions of section 9 of the Forest Act, regarding the extinction of rights in reserved forests, and of section 15, regarding the commutation of rights in such forests, to protected forests. In the case of a protected forest all that the Act contemplates is an enquiry and a record of rights, not a settlement. If the existence of a right is denied by Government in a protected forest there is nothing to prevent the claimant from resorting to the usual remedy in the Civil Courts to establish his claim, if he is so minded. And if his right is admitted he cannot be in any way *compelled* to commute or part with it. A 'settlement' with him can only be made with his consent." (G. R. 2711 of 31st March 1885 R. D.)

Letter from the Remembrancer of Legal Affairs, No. 531 of 1883, on the subject of Forest Rights in Inám Villages subjected to a Summary Settlement under Bombay Act VII of 1863 in the Thána District.

2. In a large number of the cases reported upon by Mr. Ebden, the inámdárs' original sanad contained the words which have been held by the High Court to convey proprietary rights in the soil and therefore in the forests. I apprehend that there can and will be no question as to the necessity for recognizing the title of these inámdárs to their forests, whatever peculiarities may have been detected in the manner in which the Collector and his subordinates gave effect to the provisions of the Summary Settlement Act in respect to them.

3. The only point which may appear doubtful with regard to inámdárs of this class is whether Government are bound by the terms of the kabuláyat which the Collector had taken from them, to the effect that in lieu of paying a summary settlement cess on their forest-area they would pay one-eighth of two-thirds of the proceeds of every sale of their timber whenever they might fell. These kabuláyats, it seems, are divisible into two classes, viz., (1) those taken after Government Resolution No. 254 of 23rd January 1865 was passed and (2) those taken before that date. There is no ground for any contention against the validity of kabuláyats of the first class, because the above Resolution expressly authorized the Collector to take them.

4. But as regards kabuláyats of the second class there is this to be said, that the Collector had them taken on his own responsibility and that Government have never since formally ratified his act. The history of these kabuláyats is very clearly given in paragraphs 18—34 of Mr. Ebden's able report. It appears that the Collector, Mr. Gordon, finding himself unable to carry out the orders of the Revenue Commissioner, given in his No. 2250 A. of 17th October 1863, as to the manner in which forests should be assessed for the purpose of summary settlements, thought of this plan of avoiding the difficulty. Before asking for the sanction of Government to the plan he took steps for ascertaining whether the inámdárs would accept it. He found that they would, and about seventeen kabuláyats had already been executed before he wrote in for the sanction. In his letter he did not ask Government to ratify the kabuláyats which had already been taken, he did not even mention that any had been taken. With the recommendation, however, of the Revenue Commissioner, Government, in the Resolution named in the last paragraph, sanctioned the Collector's proposal, and I do not suppose that Mr. Gordon in the least doubted that this sanction was sufficient to cover all the kabuláyats already taken. Had Government sanctioned his proposal with some essential modification, it would have been necessary, no doubt, to take fresh kabuláyats and to cancel those previously taken; but in the absence of any such cause the *ex post facto* sanction was very naturally considered by the Collector to be sufficient authority for what he had done in anticipation of it.

5. If, at the time, it had been brought to the notice of Government that these kabuláyats had already been taken, it is certain that Government would have approved them. I think, therefore, the fact that Government shortly afterwards sanctioned generally the Collector's proposal was sufficient to justify him in deeming that Government had ratified the kabuláyats already taken. That this was his opinion is evident because he did not issue orders for having the kabuláyats taken over again as he might easily have done, if he entertained any doubt.

6. These same kabuláyats have now been in force, without any question being raised as to their validity, for twenty years, and, in that interval, have no doubt been more than

once acted upon by both parties. It is not likely, I think, that any Civil Court would, under the circumstances, set aside these kabuláyats as having been made without authority.

7. I am of opinion, therefore, that none of these kabuláyats could now be cancelled except by consent of the parties thereto. Further, the only result of any such kabuláyat being cancelled would be that the forest would have to be assessed under Rule 2 of Section 6 of Bombay Act VII of 1863, and it is, I think, very doubtful whether such assessment would be as profitable to Government as the arrangement in force under the kabuláyats.

8. The foregoing remarks (paragraphs 4 to 7) have been limited to the case of inámdárs whose proprietary title was evidenced by their original sanads. But it will be evident that the same reasoning is equally applicable to all other inámdárs whose holdings contained forests, if they were otherwise entitled to have the summary settlement extended to those forests.

9. As regards inámdárs whose forest rights were not clearly evidenced by their original title-deeds, the only questions raised which I need discuss are, therefore :—

(1.) What is the effect of the manner in which the notices issued under the Summary Settlement Act to these inámdárs were worded—

(*a*) with respect to the area or revenue of the holding, and

(*b*) with respect to the foot-notes, which are translated in paragraph 43 of Mr. Ebden's letter ?

(2). What is the effect of no decision having been come to before their kabuláyat was taken, as to whether the forests were their property or not ?

10. It is important that it should be borne in mind that the summary settlements in question were not merely contracts between the inámdárs and Government, the terms of which must be sought in the offer made on the one hand and the acceptance given on the other. These settlements were made under the provisions of Bombay Act VII of 1863, an enactment expressly passed for the purpose of legalizing, regulating and facilitating them. The correspondence to which Government allude in their letter under reply establishes that the following points, which I have from time to time submitted for the consideration of Government, have been concurred in by two successive Advocates-General, the Honourable Mr. Marriott and the Honourable Mr. Latham.

(1.) That on the acceptance by the holder of any land of the summary settlement, the said land becomes his "heritable and transferable property" (Section 6, Bombay Act VII of 1863) ;

(2.) That the right to the trees necessarily follows the property in the soil (VI., Bo. H. C. R. 188, A. C. J.) ;

(3.) That such right extends to the whole area in respect of which the summary settlement was offered and accepted ; and

(4.) That Rule 2, section 6 of Bombay Act VII of 1863, merely enabled the Collector to assess land of an exceptional character at his discretion, but did not permit of his excluding such land or the trees growing upon it from the operation of the settlement.

In further explanation of the last two points, I may now add :—

(5) That there is nowhere in the Act any authority for splitting up a holding and for offering the summary settlement in respect of one portion of it and withholding the offer in respect of the rest. The evident intention of the Act is that each holder of "lands held either wholly or partially exempt from the payment of land-revenue" shall be entitled to the summary settlement in respect of his entire holding.

11. Section 9 of the Act provides for the service of a notice upon the holder of lands held wholly or partially exempt from land-revenue. There is no provision in it that the area of the lands to which it applies shall be set forth in the notice. The notice is to call upon the holder of the exempt lands "to state whether he is willing to accept and abide by the settlement" prescribed by the Act, "or whether he demands formal inquiry into his title." It is also to "explain the nature of the alternatives offered on the part of Government." Nothing more.

12. A person receiving a notice and looking to the terms of the Act under which it was issued would therefore be entitled, in my opinion, to regard anything contained in it which was not prescribed by the Act as surplusage which could not affect his legal position one way or another. At any rate he would not be bound by anything which was inconsistent with the Act.

13. Now it was not essential that the notices should set forth the area of the holding to which they related. The Collector of Thána appears to have been aware of this, for in

his very first instructions issued on 11th September 1863, he directed that the area of a village should only be entered when the survey of that village had been completed, and that in other cases it would be sufficient to write "*sabandh gaon*", the entire village "*nime gaon*", half the village, &c., as the case might be. It does not appear to me reasonable to hold the Collector, and still less the inámdárs, responsible for the various entries which the Mámlatdárs and their clerks made in the notices, in execution of, or in spite of this order. I do not think Mr. Ebden has succeeded in showing that there was any intention on the Collector's part of limiting the settlement to the precise area set forth in the notice; and if he had any such intention it was, I think, inconsistent with the Act. His object really appears to have been merely to indicate with sufficient clearness the holding to which the notice referred, and this is all that was necessary under the Act. Just as the parties to a deed are not held to be bound by an erroneous entry therein of the extent of area of the property affected, so also the figures in one of these notices were unessential if the holding to which the notice related was otherwise clearly indicated therein.

14. The same may be said, I think, with regard to the amount of assessment or revenue shown in the notices. There was no legal necessity for setting forth in them the amount of the assessment on which quit-rent would be leviable. The Act clearly prescribes how the amount is to be ascertained and a reference to those rules would have sufficed. No legal presumption can be drawn fron the fact that the assessment of forests was or was not shown, along with the assessment of the cultivated area, in the notices.

15. The Collector at first directed that the holders of forest villages should not be served with notices until orders should be received as to how to calculate the forest revenue. Afterwards, when he had received the Revenue Commissioner's instructions as to the manner in which the assessment of forest lands should be ascertained, he called for a list of inám villages in which the forest had been decided to belong to the inámdár, and directed that the notices for forest villages in which the forest had been decided to belong to Government should not show the forest revenue. From these two orders and from the Collector's subsequent order it seems that Mr. Gordon's idea was that the entire assessment on which quit-rent was to be levied should be shown in the notice. But when he attempted to give effect to the Revenue Commissioner's orders for fixing the assessment of the forests, he found himself beset by difficulties, and so, as he was pressed not to delay issuing notices, he issued them to the holders of forest villages without showing the assessment of the forest but with foot-notes added to the effect that the quit-rent in respect of the forest would be levied separately, and in doubtful cases that the question of the inámdár's right to the forest would be the subject of future inquiry. In all this Mr. Gordon no doubt acted cautiously and discreetly, but the absence from the notices issued under his orders of the forest assessment or revenue is not a certain indication that he did not intend the forests to be included in the settlement even if it was competent to him (which it was not) to exercise his own will in the matter.

16. With regard to the foot-notes which Mr. Gordon caused to be added to some of the notices, it is clear, I think, that they could have no binding force. The inámdárs might receive them as indicating the Collector's view of the law or as affording information of his intentions at that time, but their acceptance of the summary settlement, or their failure to reply to the notice had, in my opinion, no other effect than what the Act itself prescribes.

17. With regard to the reservation of the right of future inquiry into the inámdár's claims to the forest, I cannot help thinking that Mr. Gordon went much further than the Revenue Commissioner or Government intended. The Revenue Commissioner, Mr. Ellis, in the last paragraph of his letter No. 2250-A of 17th October 1863 stated as follows:—

> "3. This rule applies only to inám villages in which the inámdár claims his right over a forest not included in the assessed lands of his village, but does not apply to forest admitted to be Government reserves which may happen to be situated within the limits of inám villages."

The words used are "claims" as regards inámdárs' forest and "admitted" as regards "Government reserves." There is no indication here of an intention that there should be a preliminary inquiry and a decision in every case as to the inámdár's right to his forest. So again Government Resolution No. 254 of 23rd January 1865 was passed upon the assurance of the Revenue Commissioner that "the settlement suggested was applicable only to alienated forests and not to those which were *admitted* to be Government property." The Revenue Commissioner evidently thought that the summary settlement should and would extend to all forests within inám villages not *admitted* to belong to Government.

18. Mr. Ebden has devoted some paragraphs to show that an inquiry and a decision on this question of an inámdár's right to his forest would not be foreign to the intention and meaning of the Summary Settlement Act. From this opinion I entirely differ. The primary object of the Summary Settlement Act was to dispense with the necessity of all preliminary inquiry or decision, and the erroneousness of Mr. Ebden's argument is, I think, at once evident if we attempt to answer the questions: (1) by what authority could such an inquiry be conducted and (2) what legal force would the Collector's

decision have as against the express provision of the Summary Settlement Act that the entire holding of every inámdár who accepts a summary settlement shall thenceforward become his heritable and transferable property ?

19. The Resolution of Government, No. 3988 of 14th October 1864, placed the question of summary settlement holders' rights to trees and forests in its correct light. It said:—

"The Resolution of Government, No. 5388 of 1861, was intended to set at rest all doubts in regard to iná ms to which the summary settlement was applied, that is, lands actually in the occupation of persons claiming them as iná ms.

"2. The decision in all cases with regard to the claims to trees will therefore turn upon the fact whether the inámdár was exercising over the lands in which the said trees are situated, rights of occupancy. If he was, his right to the trees should be admitted under the summary settlement, but if, as frequently happens, the forest reserves were distinct from the rest of the village lands, and the inámdár exercised no rights of occupancy over them at the time the settlement was made, he should not be admitted under it to a right in such reserves."

20. This Resolution seems to have escaped Mr. Ebden's notice. It was no doubt in the hands both of the Revenue Commissioner, N. D., and of the Collector of Thána soon after the date which it bears, and it probably accounts for the fact that the Collector never made the threatened inquiries into the forest rights of those inámdárs whose original sanads did not in distinct words convey to them a proprietary title. If he was satisfied that a forest was included in the area within an inámdár's occupation, both the above Government Resolution and the Summary Settlement Act gave the inámdár a perfect title to that forest.

21. With reference, therefore, to the second question which I have set myself to answer (*supra* paragraph 9) I am of opinion that the Collector's reservation of a right of inquiry and decision into forest claims was unnecessary and unauthorized, and therefore void, and that the kabuláyat taken from an inámdár before any such decision was passed was therefore good and binding, if the forest to which it related was within his holding and not a distinct forest reserve admittedly belonging to Government.

22. I may add that even had my opinion as to the forest-rights of inámdárs under a summary settlement been other than it is, I should have felt great difficulty in advising Government that they might ignore and set aside agreements which were executed twenty years ago and which, as I have said above, have probably been acted upon in the interval more than once. (Accompaniment to G. R. No. 1674, 8th September 1883.)

Opinion of the Advocate-General on the Forest rights of certain Inámdárs in the Thána Collectorate.

Before proceeding to categorically answer the several questions contained in the letter No. 3854 of 1883, Revenue Department (19th May last), from the Under Secretary to Government to the Solicitor to Government, it will be well to draw attention to the provisions of the Summary Settlement Act (Bombay Act VII of 1863).

The Act recites that it is expedient to provide with certain exceptions for the summary settlement of all claims to hold land wholly or partially exempt from the payment of land revenue and

Section 2, clause 1, enacts that when the holders (holder is defined as the person who by himself or his tenants, &c., is in possession) of lands (except, &c.) held either wholly or partially exempt from the payment of land revenue, shall consent to the terms and conditions thereinafter described, it shall be lawful for the Governor in Council to finally authorize and guarantee by sanad the continuance in perpetuity of the said land to the holders, their heirs and assigns.

Section 6 enacts that the lands so continued in perpetuity shall be the heritable and transferable property of the holders, their heirs, &c., and be continued in perpetuity at a fixed annual payment to Government.

Section 9 enacts that in order to ascertain whether a holder desires to accept the settlement the Collector, &c., shall serve him with a notice calling upon him to state whether he is willing to accept the settlement or whether he demands an enquiry into his title, and clause 8, that if the holder makes no answer for six months stating that he declines the settlement, &c., he shall be deemed to have dispensed with enquiry and the lands shall be dealt with under sections 2 and 6.

Section 10 enacts that if a holder claims an enquiry, then enquiry shall be conducted under the rules enacted—Clause 2, that all land held in excess of that by which title is established, shall be fully assessed.

It is to be observed upon these provisions that the benefit of the Act is to be given to such holders, *i.e.*, persons in possession, as consent to the terms and conditions of the Act, in preference to being obliged to prove their title to exemption, and there is to be no enquiry into title save when the holder demands such enquiry.

The sole question is the fact of occupancy, and clause 2 of section 10 shows, that save where there is an enquiry into title, the right to occupancy is not a subject of enquiry.

Government in my opinion in their Resolution No. 3988 of 14th October 1862 @ 64 (referred to in paragraph 19 of Mr. Naylor's report 531 of 1883) took a perfectly correct view of the Act and were quite right in laying down in the 2nd paragraph of that Resolution that "claims to trees will therefore turn upon the fact whether the inámdár was exercising, over the lands in which the trees are situated, rights of occupancy. If he was, his right to the trees should be admitted."

So where the fact of occupancy exists there is no enquiry into the occupant's rights—if he occupies forest land there is no enquiry whether under the terms of his sanad or otherwise he is entitled to the ownership of the forest or not.

And thus the foot-notes to the notices referred to in Mr. Ebden's letter reserving the question of the ownership of the Forest until inspection of the sanads are not in accordance with the Act.

I now proceed to answer the questions put in the Under Secretary's letter.

I. Is it consistent with the Summary Settlement Act to make an enquiry for the purpose of determining whether forest land forms part of the holding of an inámdár and in his possession?

If "an enquiry" in this question means an enquiry at which the inámdár is to attend and by which he is to be bound, I think such an enquiry is inconsistent with the Summary Settlement Act, for there is no provision regarding such an enquiry, nor is there any means for making the enquiry binding upon the inámdár.

The only enquiry contemplated by the Act is that under section 10 where the inámdár claims an enquiry and under clause 2 of that section, a full assessment is leviable on all land found upon such enquiry to be held in excess of that to which the title is established.

The Act does not contemplate that there would be any question respecting the area of the holding.

Certainly, and the effect is that the ownership in the soil and trees of the forest referred to in A. under the provisions of the Act become the absolute property of the inámdár.

II. Does a kabuláyat in form A. constitute by itself a contract binding on Government?

I should consider it unlikely that any kabuláyat was executed without any notice under section 9 of the Act.

III. When such a kabuláyat was executed prior to the issue of the notice of settlement and when the notice of settlement issued subsequently reserved the question of forest rights must the settlement be held to have extended to the forests, or is it still open to Government to enquire whether the forest land was in the possession of the inámdár and formed part of his holding at the time of the settlement? Would the burden of proving the exercise of rights or possession lie on the inámdár?

And I have already pointed out that where the forest was in the occupancy of the inámdár any reservation in the notice of the question of forest rights was *ultra vires* of the Act.

Whether a preliminary notice under section 9 was given or not, would not affect the validity of the kabuláyat, and the kabuláyats in my opinion would be binding upon Government for the whole area mentioned in them, whether forest or not; and I think it is not now open to Government to enquire whether the forest land was in the possession of the inámdár and formed part of his holding at the time of the settlement.

A contract can only be rectified when through fraud or mutual mistake of both parties it does not truly express their intention [Specific Relief Act I of 1877, section 31]; and a contract is void only where both parties to it were under a mistake as to an essential matter of fact; it is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact [Indian Contract Act 9 of 1872, sections 20 and 22].

No fraud is alleged on the inámdár's part, the utmost that can be said is that Government officials were mistaken as to area in the inámdár's holding.

No kabuláyat has been granted for Maniavli, but here as in all other cases the question is, what is the area of the holding; for that area the inámdár would be entitled to the summary settlement with its consequent advantages and if that area comprised the forest, the subject of the decision of the decree, the inámdár would be entitled to the summary settlement in respect of that forest notwithstanding the High Court's decree on the construction of the sanad.

IV. Does the entry of the words Sabandh Gaon (entire village) in the notice of settlement have the effect of extending the settlement to the forest lands notwithstanding any reservation which may be made regarding such land? The High Court in their decree No. 9 of 1868 rejected the Maniavli inámdár's claim to forest rights on the ground that the sanad did not convey the soil (*vide* entry No. 42 in Mr. Ebden's list among the papers) though in the notice of summary settlement the phrase "Sabandh Gaon" was used.

If the inámdár was in possession of part only of the village, the entry of Sabandh Gaon in the notice, by mistake, would not bind Government and the settlement would be for the actual area of the holding. If, however, the holding comprised the whole village, including the forest, the exclusion of the forest by the foot-note to the notice could not deprive the inámdár of his right to the summary settlement in respect of that forest.

V. In the case of the village of Khadavli must the entry of the words "Sabandh Gaon" without any reference to forests in the notice of settlement, be construed as an extension of the settlement, to forest land notwithstanding that Government had previously decided that the inámdárs had no right in the Forest land?

I cannot advise on this limited statement of facts. It is not said whether the inámdár held the forest or not or whether he accepted the offer of summary settlement or whether any sanad has been granted.

VI. Does the unauthorized taking of a kabuláyat regarding the forest land in Bársangi have the effect of extending the settlement to such land, or does it constitute an agreement outside the settlement which is binding on Government?

Here the kabuláyat has been taken so long ago as February 1875.

The foot-note to the notice reserving forest rights was, as before stated, *ultra vires*, and the circumstance that no proof was given that the inámdár held the wahivat of the forest or that his sanad gave no forest rights cannot affect the validity of the kabuláyat—*vide* my reply to question No. 3.

VII. If the settlement made regarding the village of Milhe was based on a misapprehension, can the mistake be now rectified?

It would not appear that any settlement has been made. But it would seem that the inámdár is in possession, and if that be so, notwithstanding his sanad, he would be entitled to the forest under the Act.

VIII. In the case of Ambitghar and other villages, would the permission to cut given by the Conservator of Forests be held to prove possession of the forest land?

Before I could answer this question satisfactorily I must know something more of the facts. It may be that a question had arisen respecting the inámdár's right to the forest and that the Conservator of Forests without definitely deciding upon those rights gave him leave to cut; if so, this would be equivalent to admitting the inámdár's right to possession.

IX. In the case of Sharakati villages in which forest rights in half the villages have been conceded to the inámdár, but where there has been no demarcation, can Government take over the management of the forests under section 79 of the Forest Act?

Act VII of 1878, section 79, enacts that if Government and any person be "jointly interested." I think "jointly interested" is intended to apply to cases where there is unity of possession by Government and the inámdár of the forest in question, not to cases where (although there is no line of demarcation) it can be said Government is entitled to one portion and the inámdár to the other.—(Accompaniment to G. R. No. 1674, dated 8th September 1883.)

In cases in which a summary settlement has been made and a kabuláyat has been executed regarding the forests, the right of the inámdár to the forests on the conditions specified in the kabuláyat, should be admitted. (G. R. No. 1674, dated 8th September 1883.)

Enquiries into Claims to Forest Rights before they are admitted by Government.

It has not been decided that the fact of a summary settlement having been applied to a village is sufficient proof, *primâ facie*, of full forest rights having been granted, but only that when a summary settlement has been made it is unnecessary to go beyond it, that is, to investigate the antecedent validity of title, and it has been directed that in every case it should be clearly ascertained whether the settlement extended to forests, and that a report should be made to Government on that point before any claim to forests is admitted. In cases in which a summary settlement has not been made, the existence of a valid sanad in which full forest rights throughout a village are granted is conclusive, and when that fact is established, further inquiry is unnecessary, but all claims to forests should be reported to Government through the Legal Remembrancer for final orders. (G. R. No. 1305, dated 17th February 1883, R. D.)

Title of Inámdárs to Forests under Summary Settlement when not to be questioned.

The opinion of the late Advocate-General recognizes the possibility of a summary settlement which has been applied to cultivated lands not having been extended to forests in the same village. It has not been ordered, and it is not intended, that inámdárs should be called upon to prove their right to forests. If it cannot be proved from the Collector's records or otherwise that the forests were at the time of the settlement in the possession of Government, the title of the inámdár will not be questioned. But it is obviously desirable that before the settlement of the táluka or district is considered complete, it should be clearly determined to what lands the summary settlement has been applied. (G. R. No. 3079, dated 15th April 1884, R. D.)

Rights to Forests how conferred (a) by Sanad (b) by Summary Settlement.

The Governor in Council is of opinion that the rules on which Government have hitherto acted in deciding cases regarding the forest rights of inámdárs in their inám villages should be adhered to. These rules are (1) that the words "*jal, taru*, &c." in a sanad give a right to the forest; (2) that the Inám Commissioner's decisions are final; and (3) that the summary settlement gives a right to the forests. (G. R. No. 8185, dated 9th October 1885, R. D.)

Object of enquiries into Inámdár's Forest rights.

The object of these enquiries, as connected with forest settlements, is to enable Government to decide in each case whether Government has the right, should it be deemed desirable, to constitute part of the land of the village State forest. It has been held that Government has no such right when all Government rights have been granted to the inámdár without reservation, or with reservations which do not include the trees. (G. R. No. 8838, dated 31st October 1885, R. D.)

Nature of enquiries.

"It is not necessary that the inámdár should be called upon in every case to state whether he claims forest rights, and if so, upon what grounds. The object of these inquiries, which are not in any sense judicial or conclusive inquiries, is, to enable Government to determine in what inám villages they will and in what they will not assert forest rights. When once it is ascertained that a village has come under the summary settlement, Government have at once the means of determining their course without further investigation, and it seems quite unnecessary to trouble the inámdár. In most other cases also the nature of an inámdár's title is ascertainable without reference to him, and the inámdár should only be asked to furnish information or to state his own views when the Forest Settlement Officer has reason for doubting the real state of the case concerning his village." (G. R. No. 469, dated 20th January 1866, R. D.)

Submission of cases regarding the Forest Rights of Inámdárs.

Cases regarding inámdárs' forest rights may in future be sent by Forest Settlement Officers and Collectors direct to the Legal Remembrancer. (G. R. No. 7851, 5th November 1886, R. D.)

Distinction between Notifications under section 4 and under section 19, Forest Act.

Surveys for the purpose of demarcating forests merely, need not necessarily be made under the provisions of Chapters VIII to X of the B. L. R. Code. Section 8 of the Indian Forest Act, 1878, empowers a Forest Settlement Officer 'to enter by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same'; and appears to be quite sufficient for all the purposes of this Act. Such survey and demarcation can, however, only take place after a notification declaring that it is proposed to constitute a reserved forest has been issued under section 4 of the Forest Act. In such notification it is 'sufficient to describe the limits of the forest, by roads, rivers, ridges or other well known or readily intelligible boundaries' (*vide* explanation 1 to section 4). In the notification finally declaring a forest reserved, to be issued under section 19, the limits must be specified definitely, according to boundary-marks erected or otherwise. (G. R. No. 2813, dated 9th April 1883, R. D.)

Powers of Officers enquiring into Forest-rights.

Section 189 of the Revenue Code empowers a 'revenue officer' to summon witnesses, &c., 'for the purposes of any inquiry which such officer is legally empowered to make.' The term 'revenue officer' is defined in section 3, clause 2 of the Code, to mean an officer appointed under that Code and 'employed in or about the business of the land revenue or of the surveys, assessment, accounts, or records connected therewith.' An officer employed in ascertaining whether the forest rights in a certain village belong to Government or to the inámdár is not a revenue officer as thus defined, and he could not legally exercise the powers conferred by section 189 of the Code for the purposes of any such inquiry. Even were he gazetted an Assistant Collector, the inquiry would not relate to 'the business of the land revenue', nor could it be held to be an inquiry which an Assistant Collector is legally empowered to make. (G. R. No. 4964, dated 20th June 1884, R. D.)

Levy of Judi on "Cuttings" under Agreement.

The decision of the question whether 'Judi' is to be levied from inámdárs on the proceeds from the sale of such minor produce as the leaves of Apta, Temburni and Pallas trees, Hirdás, Shikakái, &c., growing in their forests," must rest in each case on the terms of the

agreement executed by the inámdár, and a general rule cannot be laid down without regard to the agreements. When an inámdár has agreed merely to pay judi on timber or on "cuttings," judi cannot be levied on profits derived from minor forest produce. (G. R. No. 6632, dated 8th September 1883, R. D.)

Modification of Judi.

The Commissioner, C. D., raised the following questions:—

First.—Whether in cases in which the summary settlement levies have been fixed as permanent without assessing the kuran or waste lands, the judi can now be modified on that account.

Secondly.—Whether in cases where settlement judi is liable to modification on the introduction of survey rates, and the unassessed waste lands have not hitherto been assessed, an assessment can now be imposed and an addition of judi levied on such assessment without waiting for the introduction of the survey.

Thirdly.—Whether on a refusal on the part of an inámdár to pay such additional judi the lands in question could be forfeited to Government and treated as ordinary khálsa lands.

Report by the Remembrancer of Legal Affairs:—"I would answer each of the three questions in the negative; but a single reply in the negative might lead to misapprehension.

"2. With regard to the first question, the test is whether the assessment of a village for the purpose of settling the amount of quit-rent payable under the summary settlement by the inámdár of that village has been already, once for all, fixed under either Rule 1 or Rule 2 of section 2, Bombay Act II of 1863. If it has, it cannot now be questioned; but if the question of the proper assessment of any village or of any portion of a village was expressly reserved for future consideration, there would be good ground for completing what was previously left unfinished.

"3. With regard to the second question, a reference to the above-mentioned Rule 1 will show that the Collector errs in saying that settlement judi is liable to modification 'on the introduction of survey rates' into an inám village. All that the rule contemplated was that in the case of villages as to the assessment of which, for the purpose of calculating summary settlement quit-rent, the Collector and the holder could not agree, the assessment should be—'the existing rental of the lands until the revenue survey * * * * shall have placed a new assessment thereon, after which the assessment so placed by the said revenue survey shall be understood to be the assessment.' There is a great difference between the introduction of survey rates into a village and the placing of an assessment on a village by the revenue survey, and if the settlement of the assessment has been deferred in any case till the former occurrence takes place, the procedure has been irregular. In other districts, I believe the revenue survey assessed some inám villages merely for the purpose of satisfying the requirements of the above Rule 1. Where this has been done, the assessment fixed by the survey is, in my opinion, final, whether the survey assessed kurans and waste land or not.

"4. As to the third question, inám land could, of course, not be forfeited to recover any illegal demand, but if an inámdár refused to pay quit-rent lawfully due by him, all the methods prescribed by the Revenue Code for the recovery of revenue demands could be enforced against him or his property." (G. R. No. 1957, dated 12th March 1886, R. D.)

Service Lands are "alienated" but not held under a Proprietary Title.

"1. Section 40 of the Land Revenue Code is inapplicable to lands held for service, which are 'alienated' and not 'unalienated lands.'

"2. The former portion of No. 10 of the Joint Rules applies in every village in the Násik District into which a survey settlement was introduced during the period when that rule was in force.

"3. But as the rule is relied upon as conveying a grant or concession by Government, it should be strictly construed in favour of the State, and the words 'proprietors of inám, judi and mirás lands' may reasonably be taken to mean persons having proprietary rights in such lands. The use of the word 'proprietors' in such a context is unusual and unless it was intended by using it to lay stress upon the possession of proprietary right, it is not easy to account for the more ordinary words 'holders,' or the more natural terms 'inámdárs, mirásdárs, &c.,' not having been employed.

"4. Government may fairly claim that the Joint Rule No. 10 merely acknowledged the right over trees possessed by proprietary inámdárs, which has since been frequently decreed by the civil courts.

"5. *Primâ facie* lands held for service are not held under a proprietary title and there is no reason for thinking that the lands of the Hatnore jágliás are exceptional. Unless they hold under a title-deed which confers proprietary rights in express terms, they are not entitled to the timber on their lands or to forest rights." (G. R. No. 419, dated 17th January 1887, R. D.)

Forest Rights in Service Lands.

The distinction between a holder of service lands and an ordinary occupant is clear. Service tenure is a privileged tenure and the extent of the alienation conveyed in the privilege is governed by the general rules which do not presume cession of forest rights in the absence of proof.

2. Government can disallow altogether the cutting of trees in service lands or can permit it subject to such conditions as they may think fit to impose. (No. 5987, dated 6th September 1888, R. D.)

Section 55.—Meaning of term "Forest Produce."

Memo. by L. R.:—"The definition of the term 'forest produce' given in the Forest Act is not exhaustive, and reading the term in its ordinary sense it means anything which is produced in a forest and it therefore includes, in my opinion, a crop raised in a forest reserve.

"2. I agree with the Collector that in the case he mentions the crop is the property of Government by accession, and, therefore, under section 55 of the Act, it may, I think, be taken charge of by a Forest officer." (G. R. No. 6910 of 28th August 1884, R. D.)

Section 63.—Powers of seizure.

In accordance with the opinion of the Remembrancer of Legal Affairs a Forest officer has power, under section 63 of the Indian Forest Act, to arrest without warrant a person guilty or reasonably suspected of having cut without the requisite permission Government teak trees on occupied numbers, but at the same time as such teak is not forest produce he has not authority to seize it under section 52 of the Act. The unlawful cuttings and loppings under the rule under section 75 published in Government Notification No. 343, dated 15th January 1883, being the property of Government can however be seized and detained, pending final disposal of the case, by the officers of Government under the ordinary criminal law like any other stolen property. (G. R. No. 9961 of 11th December 1885, R. D.)

Section 81.—Meaning of "Price of any Forest Produce."

Letter from the Conservator of Forests, N. D.:—"5. The marginal note in the Forest Act against section 81 reads thus: '*Recovery of money due to Government.*' The grazing of a reserved forest was sold to a contractor who was bound under written agreement to pay the amount of any damages which might occur by proceedings or default on his part beyond the stipulations of his agreement. The contractor let in sheep into the reserved forest which he was not entitled to do, and the sheep devoured plants, which a Committee, the contractor being a member thereof, valued at Rs. 26. I deferentially submit that this money comes in the words of section 81 of the Forest Act within the description of '*on account of the price of any forest produce,*' and if the marginal note 'Recovery of money due to Government' is meant to express the intention of section 81 then the money is, I still think, leviable under that section."

Memo. by L. R.:—The 'price' of a thing is the sum for which it is sold, not the value at which a thing may be assessed after it has been misappropriated. Marginal notes are merely a guide to the contents of the sections of an enactment; they are not a part of the law." (G. R. No. 1422 of 14th February 1884, R. D.)

Section 81.—Recovery from Persons resident in Native States.

Memo. by Acting L. R.:—"Government calls for my opinion as to the legal course to be adopted for the recovery from persons resident in Native States of monies due, which in the Bombay Presidency would be recoverable as arrears of land revenue.

2. In the particular instance referred to, a man bought Government timber for Rs. 209, deposited Rs. 43, and never paid the rest. The timber on resale by the Forest Department realized only Rs. 114. The balance of Rs. 52 has yet to be recovered. The purchaser, however, after the sale went and lived in a Native State. The Political Agent expressed his inability to realise the deficit as an arrear of land revenue.

3. The statement of the Law contained in the preamble to Government Resolution No. 2877, Revenue Department, of 21st May 1881, appears to be indisputably correct and equally applicable to Native States as to Districts in another Presidency.

4. There appear to be two courses open therefore :—

(*a*) to wait till the debtor re-appears in British territory, and then enforce recovery under the Bombay Land Revenue Code, against any available property he may have with him, the balance of the price being, as pointed out in Government Resolution No. 7373 of 6th November 1888, still recoverable as land revenue, or

(*b*) to file a suit against him in the Court within whose jurisdiction the cause of action arose, the service of summons being effected under section 89 or section 90, Civil Procedure Code, as amended by section 12 of Act VII of 1888, as the case may be, and on decree being obtained execution will probably be obtainable, by transfer of the decree to the appropriate Court established or continued by the authority of the Governor General in Council in the territories of the Native State, if the Governor General in Council has by notification in the *Gazette of India* declared section 229A, Civil Procedure Code, as amended by section 24 of Act VII of 1888, to apply thereto (*vide* section 229A as amended by section 24 of VII of 1888).

5. If section 229A has not been made applicable to the Native State in question, there would be apparently no means of executing the decree till the debtor appears in British territory. If he does so re-appear he might be called on to give security to appear and answer any decree that might be passed against him (section 447, Civil Procedure Code), and on failure to give security he might under section 481 be detained till he complies.

3. Otherwise there appears to be no remedy unless Government should decide to sue the debtor in a Court having jurisdiction in the Native State in question. (G. R. No. 7103 of 20th September 1889, R. D.)

Sections 81 and 82.—Recovery by Collector after sale by Forest Department.

"Memo by Acting L. R.:—A. purchaser of Government timber at auction paid only a portion of the price. The Forest Department appear to have taken possession of a portion of such timber and to have sold it by public auction in order to realize the balance of the price.

"The price fetched at this second sale not realizing all that was due, the Conservator applied to the Collector to realize the outstanding under section 81 of the Forest Act VII of 1878.

"The Collector declined on the ground that the balance due was not part of the price but a deficit on re-sale for which no provision existed such as in analogous cases under the Land Revenue Code is made by sections 175, 176 and 177.

"2. The question is whether the money can be recovered under section 81 of the Forest Act as if it were an arrear of land revenue.

"3. Section 81 provides that money payable on account of forest produce may be recovered as if it were an arrear of land revenue.

"4. This was clearly the opinion of the Honourable Mr. Naylor as expressed in his report No. 1645 of 22nd December 1883 (Government Resolution No. 239, dated 10th January 1884).

"5. Money payable on account of the price does not lose its character by the mere fact that part recovery has been effected under another procedure. If a portion of the price had been recovered as it fell due by civil suit or by auction sale under the Land Revenue Code, or in any other way, that would not affect the power conferred by section 81 in respect of the balance.

"6. The Collector appears to regard section 82 of the Forest Act as providing for a re-sale.

"7. I do not think section 82 refers to re-sale. It is evidently framed so as to include all cases where money is due under the Act or under the rules and would cover such cases as are provided for by rules under section 51 (*c*), and all cases in which money is payable under the Act as duty, fee, royalty, &c.

"8. This I think accounts for the omission in section 82 of all reference to deficit and re-sale.

"9. Indeed section 82 does not treat the sales made by a forest officer under its provisions as a re-sale at all. In cases where the legislature provides for re-sale (*vide* Civil Procedure Code, section 308 and Land Revenue Code (Bombay V of 1879, section 175) the defaulting purchaser is declared to forfeit all claims to the property or to any part of the sum for which it may be sold.

"10. Section 82 does not do this and does not extinguish the property in the produce sold, but only declares it subject to a charge.

"11. Section 82 therefore does not operate as a rescission of the sale, but only as one of the means by which money payable for or in respect of produce may be recovered, and the balance unrecovered is therefore still due on account of the price, and does not become due as a deficit on re-sale.

"12. I am therefore of opinion that such balance of the price is recoverable under section 81 as if it were an arrear of land revenue notwithstanding any other steps short of a rescission of the sale that may have been previously taken for recovery. (G. R. No. 7373, dated 6th November 1888, R. D.)

PART V.

RULES UNDER THE BOMBAY IRRIGATION ACT, 1879.

Under Section 70 of the Bombay Irrigation Act, 1879, the Right Honourable the Governor in Council is pleased to make the following Rules for the administration of canals in the Bombay Presidency :—

I.—Application for Water for Irrigation.

1. Applications for water for the purpose of irrigation must be made in duplicate to the Executive Engineer of the district or to some other canal officer duly empowered to receive such applications, in the form of Appendix No. I, blank copies of which will be supplied to intending applicants free of charge. (Notn. No. 1 *B. G. G.*, 1881 Pt. I., p. 10, and Notn. No. 75, *B. G. G.*, 1887, Pt. I., p. 837.)

Applications under section 27 how to be made.

When the land to be irrigated is held jointly by two or more holders, the application must be signed by each of such joint holders.

One copy of the application will be retained by the Executive Engineer or other officer aforesaid; the other will be returned with columns 10 and 11 filled in by the Executive Engineer, or other officer aforesaid, to the applicant or applicants.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer or other officer aforesaid. No application for water will be received unless signed by the registered occupant of the land, or his recognized representative; and the application must bear the countersignature of the Patel of the village in token of its being correct. (Notn. No. 12, *B. G. G.*, 1885, Pt. I., p. 1001.)

2. The Executive Engineer, or other officer aforesaid, after instituting due inquiry, may either reject the application, or comply with it, either in its original form, or subject to such amendment as the applicant at his suggestion accepts: Provided that—

Applications may be rejected or complied with wholly or in part.

(1) in every case in which he rejects the application, the Executive Engineer, or other officer aforesaid, shall report his proceedings to the Superintending Engineer for confirmation, to whom also an appeal shall lie against his order;

(2) no owner of a water-course or other person entitled to a supply of water under section 21 (*d*) shall be refused the supply to which he is so entitled.

3. Except in the case named in the second proviso to the last preceding rule, no application for water for irrigation will be entertained unless the land to be irrigated is

Applications only to be entertained for certain lands.

demarcated by a clearly distinguishable boundary and has been prepared for irrigation.

(Notn. No. 13, B.G.G., 1883, Pt. I., p. 777.)

Classing of crops.

4. Perennial crops will invariably be classed as kharíf. All other crops, for which the first waterings are taken between 15th January and 15th October, will be classed as kharíf. Those for which the first waterings are taken after 15th October will be classed as rabi.

Applications when to be made.

Applications for wet *kharíf* crops (such as rice, &c.,) should be made before the 1st May, and for *rabi* crops before the 15th November.

Priority of grant of applications.

Applications for water for monsoon dry-crops may be submitted at any time, but applications received before the 1st of May will have priority over those subsequently made.

In all other cases, applications for water shall be complied with, as far as possible, according to their priority.

Executive Engineer's decisions on applications to be given publicly.

5. The decision of the Executive Engineer on applications for water from each water-course should be given on the spot, as far as possible, in the presence of all applicants, who should receive notice to attend.

Priority of right to water when supply proves deficient.

6. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer of the district: Provided always that the claims of those applicants whose applications were made before the 1st May for *kharíf* crops, and before the 15 November for *rabi* crops, shall have priority over those subsequently made.

II.—CLOSING OF CANALS FOR REPAIRS, &c.

Except in cases of emergency, canal not to be closed without sanction of Superintending Engineer.

7. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency without the previous sanction of the Superintending Engineer, who shall fix the period, or periods, for which the supply of water may be stopped under section 28 (*e*) on account of the execution of such repairs, &c. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

III.—WATER-SUPPLY RATES FOR IRRIGATION.

Rates how to be fixed.

8. The rates leviable for canal water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated and the season of the year in which it

is to be grown, and according as the water is obtainable from the canal by lift or flow.

Rate leviable when no crop is sown after first watering.

9. When a field receives the first or preliminary watering, and afterwards no crop is sown during the period named in column 8 of the application as that in which the crop for which the water was applied for should ordinarily come to maturity, the lowest rate chargeable for lift or flow (as the case may be) will be levied.

Rate leviable when mixed or several different kinds of crops are grown.

10. If mixed crops be grown in the same field, or if different crops be grown in different parts of the same field, the rate shall be calculated on the highest rated crop grown during the period for which water is taken.

Rate leviable when first crop fails and a fresh one is sown.

11. When the crop first sown fails and is ploughed up and a fresh crop is sown in the same season, the rate shall be levied on that crop only which comes to maturity.

Rate leviable when only a part of a field is irrigated.

12. If only part of a field be irrigated, the rate shall be chargeable on the area of the whole field unless such part shall, from the first commencement of the irrigation, have been clearly demarcated by a ridge not less than half a foot high.

Rate leviable when part of a field is irrigated with well-water and part with canal-water.

13. When a portion of a field has been irrigated with canal-water and a portion with well-water, the rate shall be chargeable on the whole field unless the portion irrigated by well-water shall, from the first commencement of the irrigation, have been clearly demarcated by a ridge not less than half a foot high.

If the portion demarcated for the purpose of being irrigated by canal-water has nevertheless been partly irrigated by well-water, enquiry shall be made whether the use of well-water was necessitated by a deficiency in the supply of canal-water, and, if it be shown to the satisfaction of the Executive Engineer that it was so, the rate chargeable on the portion irrigated by canal-water shall not exceed the lift rate.

Rate leviable when well-water and canal-water are conveyed in the same course.

14. If well-water is conveyed to any land irrigated from a canal in the same channel as the canal-water, the water-rate shall be chargeable on the whole of the land irrigated from such channel: Provided that if it be shown to the satisfaction of the Executive Engineer that the use of well-water was necessitated by a deficiency in the supply of canal-water, the rate chargeable shall not exceed the lift rate.

Provisions applicable to supply from escape channels.

15. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for such supply.

16. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer of the district, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

Rate leviable for supply of water obtained without permission.

17. Water may be given for the purpose of forming threshing-floors free to holder of canal-irrigated fields, and to others at a charge per floor not exceeding half the lowest acreage rate.

Rate leviable for supply of water for forming threshing-floors.

Water-supply Rates for Non-irrigational purposes.

18. Water supplied from a canal for any purpose other than irrigation will be charged for by volume, or otherwise at such rate as Government shall from time to time determine.

For non-irrigational purposes rates will be charged for volume or otherwise.

IV.—OCCASIONAL RATES.

19. The charge to be made under Section 45 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely) :—

Charge to be imposed when water supplied through a water-course is unauthorizedly used.

(*a*) if the water so used has flowed on any land and such land has derived benefit therefrom,	double the highest rate leviable for a single crop ;
(*b*) if the water has flowed on any land but such land has not derived benefit therefrom,	double the rate that would be chargeable under Rule 9 ;
(*c*) in any other case,	double the rate chargeable under Rule 18 on the volume of water estimated by the Executive Engineer to have been used.

The above charges will be leviable in addition to any penalty which may be imposed under the Act on the person who unauthorizedly used the water.

20. The charge to be made under Section 46 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

Charge to be imposed when water supplied through a water-course is suffered to run to waste.

(*a*) if the water has flowed on any land, { double the rate that would be chargeable under Rule 9;

(*b*) in any other case, { double the rate chargeable under Rule 18 on the volume of water estimated by the Executive Engineer to have been wasted.

V.—REMISSIONS.

21. Remissions of water-rate under the last paragraph of Section 31 may be allowed by the Superintending Engineer and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

Remissions under last paragraph of Section 31 may be granted by Superintending Engineer.

22. Claims for such remissions shall be preferred to the Executive Engineer of the district direct; and, if not so preferred within one month from the time when the damage in respect of which the remission claimed is alleged to have occurred, shall not be entertained.

Claims to such remissions to whom and when to be made.

If, without giving the Executive Engineer at least seven days' notice in writing of his intention, the claimant cuts the crop alleged to have been damaged at any time within 20 days after preferring his application, his claim shall not be entertained.

23. If the application be preferred within the period prescribed by the last rule, the Executive Engineer shall, within 20 days after the date of its receipt or within the period of the notice, if any, given to him under the said rule, make or cause to be made a local inquiry, at which he or any person acting under his special order in this behalf shall be present, and the result of which shall be recorded on the application, which, together with the opinion of the Executive Engineer, shall then be forwarded to the superintending Engineer for disposal.

Such claim how to be disposed of.

The order passed on the application shall be communicated to the applicant by the Executive Engineer.

24. Remissions of water-rates may also be granted, at his discretion, by the Superintending Engineer on reasonable cause being shown and after due inquiry for any loss caused by deficiency or

Superintending Engineer may also grant remissions for loss caused by deficiency or excessive supply of water;

excess in the supply of water when such deficiency or excess has been occasioned by some act or omission of a canal officer and independently of any act or omission of the person chargeable with the rate.

and on account of excess charges.

Applications for the remission of excess charges on account of water-rates shall also be disposed of by the Superintending Engineer, to whom such applications shall be forwarded for consideration by the Executive Engineer, or by the Collector, through the Executive Engineer.

Other claims for remission to be reported to Government.

25. Any claim for remission of water-rate not falling under Rule 21 or 24 shall be reported by the Collector, through the Commissioner of the Division, for the orders of Government in the Public Works Department.

Intimation of remissions to whom to be made.

26. Intimation of remissions under Rules 21 and 24 will be communicated by the Superintending Engineer to the Examiner of Public Works Accounts and the Executive Engineer in statements prepared in the form of Appendix No. II.

The Executive Engineer shall keep a register of all authorized deductions from water-rates in the same form.

VI.—RECOVERY OF DUES.

Return of measurements and assessments to be prepared.

27. A return of measurements and assessments in the form of Appendix No. III shall be prepared by such subordinate canal officer as shall from time to time be deputed to this duty by the Executive Engineer of the District and submitted to the Executive Engineer, who, with the aid of his establishment, shall test at least 10 per cent. of the measured areas.

Statement of demands to be rendered to the Collector.

28. The Executive Engineer shall, from the Register and Return Nos. II and III, frame a statement of demands for water-rates according to the form of Appendix No. IV., which he shall forward, together with copies of the Register No. II and of the Return No. III, to the Collector. This statement shall be rendered on 15th December for *kharif* and on 1st May for *rabi*.

Collector to issue instructions for recovery of demands.

29. On receipt of the demand statement the Collector shall issue instructions for the recovery of the amounts therein named from the persons respectively liable for the same.

Rates when and to whom payable.

The rates for *kharif* shall be payable on the 1st February and those for *rabi* on the 15th June. They shall be payable, each in one instalment, to the revenue officers to whom the land revenue is payable by persons holding land in the villages in which the persons liable therefor respectively reside.

30. If any objection is raised before the Collector, or any of his subordinates, as to any entry in the said statement, such objections shall be forwarded by the Collector, through the Executive Engineer of the District, to the Superintending Engineer for disposal under Rule 24, if it has reference to some action on the part of the Public Works Department; otherwise it shall be disposed of by the Collector, or, subject to the law and rules in force relating to the recovery of arrears of land revenue, by his subordinates.

Objections to entries in the statement how to be disposed of.

If the decision of any such objection by the Collector, or any of his subordinates, results in the remission of any portion of any charge entered in the demand statement, the result shall be communicated by the Collector to the Executive Engineer of the District, and shall also be shown in the return No. VII to be submitted, under Rule 37, to the Examiner of Public Works Accounts.

If in consequence of objection Collector remits any portion of a demand, his order to be communicated to Executive Engineer of the District.

Appeals.

31. Every order passed by an Executive Engineer under Rule 13 or 14 shall be appealable to the Collector, and every order passed by any such officer under Rule 19 or 20 shall be appealable to the Superintending Engineer: Provided always that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

Appeals against orders under Rules 13, 14, 19 and 20.

32. All appeals preferred under the Act or under these Rules must be made by written petition signed by the appellant. Such petition may be delivered at the office of the authority appealed to by the appellant in person during office hours, or be forwarded through the post.

Manner of preferring appeals.

MISCELLANEOUS.

33. Applications for free grants of water-supply shall be referred for the orders of Government in the Public Works Department, and no such grant shall be made without the previous sanction of Government.

Free grants of water-supply.

34. In cases of dispute regarding water-supply, or remission or abatement of water-rate, the water-gauges and meters set up by the Public Works Department shall, if certified by the Executive Engineer of the district to have been in good order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Readings of water-gauges and meters set up by Public Works Department to be accepted as authoritative.

Certain acts forbidden to canal officers, &c.

35. No canal officer or other officer or subordinate in the Public Works Department shall—

(1) acquire, directly or indirectly, any share of interest in the distribution of water from any canal; or,

(2) purchase, or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under Section 61, clause (9) of the Act.

Returns, &c.

Annual Returns Nos. V and VI.

36. The Executive Engineer shall furnish an annual return, for *kharíf* and *rabi* respectively, as per form of Appendix No. V, to the Superintending Engineer and to the Examiner of Public Works Accounts on the same dates on which the statement of demands (No. IV) is sent, under Rule 28, to the Collector. He shall also furnish the Superintending Engineer and the Examiner of Public Works Accounts with a general return, as per form of Appendix No. VI, on the 15th April of each year.

Annual Return No. VII.

37. The Collector shall furnish the Superintending Engineer through the Executive Engineer of the district and the Examiner of Public Works Accounts, with annual returns in the form of Appendix No. VII, for *kharíf* and *rabi* separately, on the 15th April of each year, showing the water-rates and miscellaneous revenue assessed and realized in the Civil Department.

Annual Return No. VIII.

38. When separate water-rates have not been fixed by Government, but a consolidated soil and water-rate is levied, the Collector shall furnish the Superintending Engineer, through the Executive Engineer of the district and the Examiner of Public Works Accounts, with an annual general return of consolidated revenue in the form of Appendix No. VIII as soon after the close of the revenue year as possible.

Annual Return No. IX.

39. The Collectors in Sind shall furnish the Superintending Engineer in Sind and the Examiner of Public Works Accounts, on 15th April of each year, with returns in the form of Appendix No. IX for *kharíf* and *rabi* respectively, of receipts from "*haccaba*" on Jághír lands, and of miscellaneous receipts from canals; and the Collectors in Gujarát and the Deccan shall furnish similar returns in cases where separate water-rates are recovered, as per Survey Register and credited to Government in the Public Works Department.

...No. 14, ...W. D., B. ..., 1883, ..., p. 857.)

The following Rules were made under Section 70 of the Bombay Irrigation Act, 1879, by the Governor in Council for regulating the preparation of lists of persons bound, under Section 58 of the said

Act, to assist in the execution of work on the occasion of an emergency, (namely) :—

List when to be prepared.

1. Whenever it appears to a Canal Officer duly empowered to act under section 58 of the Act, that circumstances may probably arise which will render it necessary for the provisions of that section to be put into operation for the execution of any repair, clearance, or work which is being or is about to be carried on by the Irrigation Department, he shall communicate with the Collector, who shall thereupon cause a list to be prepared of the able-bodied persons to whom the said provisions are applicable.

The list so prepared may from time to time be revised and amended.

Area for which the list should be prepared.

2. The list shall include the names of persons holding land or resident within such distance from the locality of the repair, clearance, or work as the Collector, having regard to the number of persons likely to be required to assist at such repair, clearance, or work, shall think proper.

Classes of persons to be included or exempted.

3. The list shall contain the name of every able-bodied man or woman, who holds land within the area fixed by the Collector under the last preceding rule, or who resides within the said area, and earns his or her livelihood by manual labour: Provided that—

(*a*) the names of persons who appear to the Collector to be under sixteen or over fifty years of age shall be omitted, and

(*b*) any land-holder who is unaccustomed to manual labour shall be permitted, when called to assist at any repair, clearance or work, to furnish as a substitute any able-bodied person whose name is not on the list.

Publication of names included in the list.

4. The Collector shall cause the names of the persons holding land or resident in each village within the area fixed under Rule 2, included in the list, to be posted up in the chauri or on some other public building in such village, and to be proclaimed in the village by beat of drum.

Hearing of objections.

5. Any person whose name is entered in the list may apply in writing to the Collector to have his name removed therefrom. The Collector, after such inquiry (if any) as he thinks necessary, shall record his decision in writing for either rejecting or granting the application.

Subject, as provided in section 67 of the Act, to the supervision and control of the Commissioner of the division, the Collector's order shall be final.

6. In these Rules the word "Collector" shall include any officer appointed by the Governor in Council to exercise the power of a Collector under section 59 of the Act.

ADDITIONAL ORDERS AND RULINGS.

Meaning of the word "Canal."

1. An irrigation tank which is maintained (*i.e.* repaired and otherwise kept in order) by Government is a "canal" within the meaning of that word as defined in section 3 (1) (*a*) of the Bombay Irrigation Act, 1879, and therefore section 28 and section 61, clause 10 of that Act both apply to any private water-course which is supplied with water from any such tank. (Opinion of Legal Remembrancer quoted in G. R. No. 76 A. I.—212 of 28th June 1886, P. W. D.)

Water-rates leviable from Inámdárs.

2. Under section 44 of Bombay Act VII of 1879 water-rates are leviable from inámdárs as well as from Government occupants on account of increased water-supply owing to the improvement of an existing reservoir. In the case of irrigated inám lands which were assessed and recorded as dry-crop at the first survey settlement, there can be no difficulty in applying section 44 to the levy of water-rate on account of improved supply from these lands if they now take the Government water. But there may be some difficulty in dealing with lands which, at the original settlement or in summary settlement sanads, were assessed and recorded as irrigated. There may in such cases be a doubt or contention as to the extent to which the amount or duration of the water-supply has been increased by the improvement. If the supply, having formerly lasted up to the end of January, has by the improvement become perennial, the improvement is clear and decided; but if the supply which previously lasted up to the end of January is now stated to have been extended by the improvement,—say, up to the middle of March,—care will be necessary not to over-estimate the extent of the improvement to the injury of the inámdárs. In such cases Government in the Revenue Department are of opinion that the powers given by section 44 of the Irrigation Act should be used with caution. (G. R. 3706 of 28th June 1881.)

Rates not leviable unless water applied for.

3. Looking to section 27 and the last paragraph of section 44 of the Act it does not seem to have been the intention of the Legislature that landholders should be bound to pay for an increased water-supply which is furnished by the Irrigation Department without being applied for. The last words of section 44 "or by any person who uses the water so supplied," must be held to refer to water which is supplied by the Department on application, and which is voluntarily used by some person other than the applicant. (G. R. 13 A. I.—43 of 2nd February 1885.)

Riparian rights and rights to artificial water-courses.

4. The right to the water of a river flowing in a natural channel through a man's land, and the right to water flowing to it through an artificial water-course constructed on his neighbour's land, do not rest on the same principle. In the former case each successive riparian proprietor is *primâ facie* entitled to the unimpeded flow of the water in its natural course, and to its reasonable enjoyment as it passes through his land as a natural incident to his ownership of it. In the latter, any right to the flow of the water must rest on some grant or arrangement, either proved or presumed, from or with the owners of the lands from which the water is artificially brought, or on some other legal origin. (Law Reports, VI Indian Appeals, p. 33.)

Section 57 authorises recovery of overdue water rates under B. L. R. C., but not precautionary measures.

Memo. by L. R:—"I am of opinion that overdue water rates payable under section 57 of the Irrigation Act can only be recovered like *arrears* of land revenue, and that the provisions of sections 140-145 of the Revenue Code for securing the recovery of land revenue by measures to be taken before it is in arrear are, therefore, not applicable to such water rates." (G. R. No. 2882, 9th April 1885, R. D.)

Owners of existing water-courses cannot be called on to alter their position.

Memo. by L. R:—No power is provided by the Irrigation Act for requiring the owners of existing water-courses to alter their position or alignment so as to enable the canal officers to supply them with water from other sluices than at present. When water-courses have been constructed on the understanding that the sluice is to be in a certain place, it would be a breach of contract on the part of the canal officer to close the sluice afterwards and to require the owner of the water-course to get his supply from some other sluice. And if, as appears, the existing sluices have been constructed by the owners of the water-courses who got the supply from them at their own expense, the breach of contract would be still more obvious.

2. Section 8 of the Act empowers canal officers to enter upon any land in order to do whatever is necessary for the proper regulation and management of the canal, but this must of course be understood to refer only to things which may be legal and reasonable.

3. The canal officers can arrange as they think proper in respect of new water-courses; and I may add that under sections 21 (*c*) and 23 they may utilize not only existing sluices but also the water-courses attached thereto, or portions of them, for supplying water in fresh directions. (G. R. No. 5 W. I.—13 of 13th January 1885, P. W. D.)

Sluices and outlets to be under control of canal officer.

It is essential that the sluice or outlet, through which water is supplied from a canal, shall be under the control of the canal officer.

2. Permanent heads to existing water-courses may be gradually constructed by Government as funds became available, estimates being at once submitted for such canals as are liable to injure the Railway.

3. In the case of new water-courses, an agreement should be taken from the applicants to pay half the cost of permanent head-works, Government defraying the other half and maintaining the entire work in the future.

4. If from an insecure head-work or from no head-work at all, water is running to waste and doing injury to property, it must obviously be shut off till it can be again brought under proper control. (G. R. No. 274 W. I.—595 of 16th December 1884, P. W. D.).

Section 28.—Stoppage of water-supply.

Memo. by L. R.:—Section 28 of the Irrigation Act provides for every case in which a supply of water may legally be stopped, and seems to me to cover such cases as those referred to in G. R. No. 274 W. I.—595 of 16th December 1884, para. 4. Section 35 regulates the award of compensation for the stoppage of a water-supply. (G. R. No. 82 W. I.—180 of 15th April 1885, P. W. D.)

APPENDIX No. I.

_____ CANAL.

Form of Application for Water for Irrigation.

To

The EXECUTIVE ENGINEER for IRRIGATION, _____ DIVISION.

I, *A.B.*, resident of _____ Táluka _____, in the _____ District, make this application for the supply of water from the above canal for the purpose of irrigating the undermentioned crop on the land hereinafter described _____, (namely):—

Survey Number.	Village.	Mile.	Distributing Channel Number.	Area of Field to be irrigated.		For what Crop required.	Date from which water is required.	In how many months from such date crop should come to maturity.	Crops sown on this land during the previous year.	Order of the Executive Engineer as to whether the application is granted or not.	Water-rate to be charged per acre if application is granted.
				Acres.	Gunthas.						
1	2	3	4	5		6	7	8	9	10	11

Dated the _____ *189* .

(Signed) _____ Applicant.

Witnesses.

(Signed) _____ Executive Engineer.

Columns Nos. 1 to 9 to be filled up by applicant. Nos. 10 and 11 by the Executive Engineer.

Application to be made in duplicate—one for applicant, the other for Executive Engineer.

NOTE.—Under Rule III. of the Canal Rules no application for water will ordinarily be entertained unless the field to be irrigated is demarcated by a clearly distinguishable boundary and has been prepared for irrigation.

APPENDIX No. II.

No. } _____ { CANAL. कालवा.
नंबर }

Form of Register of authorized Deductions from Water-rates, Kharif (or Rabi) Season, 189 -9 .

Táluka. तालुका.	Village. गांवाचे नांव.	Survey Number. सर्वे नंबर.	Person to whom allowance made. ज्या इसमाला द्यावयाचे त्याचे नांव.	Remissions. सूट.		Free Grants. माफी.		Total Deductions. एकंदर कमी केलेला पैसा.	REMARKS. शेरा.
				Acres. एकर.	Water-rate. पाण्याचा दर.	Acres. एकर.	Water-rate. पाण्याचा दर.		

_____ { 18 १८ _____ { Executive Engineer, Division. एक्झिक्यूटिव्ह इंजिनियर, डिव्हिजन.

B 120—44

APPENDIX No. III.

Form of Return of Measurement and Assessment.

No. नंबर. _____ Canal. कालवा. _____

Village गावाचे नांव _____ Táluka तालुका _____ District जिल्हा _____

Kharif (or Rabi) Season, 189 -9 .

Number. नंबर.	Survey Number. सरवे नंबर.	Distributing Channel. पाट. Mile. मैल.	Distributing Channel. पाट. Number. नंबर.	Registered Occupant or Holder. मालक.	Cultivator. लागवड करणारा.	Measurement (Field). शेतांची मोजणी. Length. लांबी.	Measurement (Field). शेतांची मोजणी. Breadth. रुंदी.	Area in Acres. क्षेत्रफळ एकर. Flow. प्रवाहानें.	Area in Acres. क्षेत्रफळ एकर. Lift. मोटेनें, राहाटानें, वगैरे.	Produce. उत्पन्न.	Water Rate per Acre. पाण्याचा दर प्रत्येक एकरास.	Water Rate for each Field. पाण्याचा दर प्रत्येक शेता-करितां.	Amount due by each Cultivator. प्रत्येक लागवड करणाराकडे झालेली रकम.	Remarks. शेरा.

Note.—Return for Kharif to be printed in blue ink. Return for Rabi to be printed in red ink.

Certificate by Executive Engineer regarding Measurement Tests.
मोजणीविषयीं एक्झिक्यूटीव इंजनीअरकडून खात्रीचा दाखला. _____ 18 १८ _____ Measurer. मोजणारा.

_____ Overseer. ओव्हरसीअर.

_____ Executive Engineer. एक्झिक्यूटीव इंजनीअर.

Executive Engineer. एक. एंजि. _____ Division. डिव्हिजन.

Kharif (or Rabi) Season, 189 -9 .

APPENDIX No. IV.

_____ CANAL.

Form of Statement of Demands for Water-rates for Irrigation.

No. of the Measurement Statement.	Village.	Táluka.	Water-rate.			Deductions.				Net amount to be realized by Collector.		
1	2	3	4			5				6		
			Rs.	a.	p.	No. †	Rs.	a.	p.	Rs.	a.	p.
		Total ...										

* Refer to Register No. II. for details.

† Refer to Return No. III. for details.

No. _____ OF 189 .

* Forwarded to the Collector of _____ for realization in accordance with Canal Rule 28, together with copies of the Register No. II. and the Return No. III. herein referred to.

_____ 189 .

_____

Executive Engineer for Irrigation,

_____ Division.

Kharif (or Rabi) Season, 189 -9

APPENDIX No. V.

_____ CANAL.

Form of Annual Return of the Area of Irrigation and Water-rate to be collected in the _____ District.

No. of Return No. II.	Village.	Táluka.	Area in Acres.			Water-rate.			Remissions and free grants.	Net amount to be realized by Collector.	Remarks.
			Flow.	Lift.	Total.	Flow.	Lift.	Total.			

No. _____ OF 189 .

Forwarded to the Superintending Engineer for Irrigation _____ and Examiner of P. W. Accounts in accordance with Canal Rule 36.

_____ 189 .

_____

Executive Engineer, Irrigation, _____ Division.

_____ IRRIGATION DIVISION. APPENDIX No. VI. _____ CANAL.

Form of Annual Return of Revenue from all sources during the Official year 189 -9 .

	WATER RATES FROM IRRIGATION REALIZABLE BY COLLECTOR.			* MISCELLANEOUS RECEIPTS.										
	Net to be realized.	Remissions and free grants.	Total.		Sale of Water.	Water-supply of Towns.	Plantations.	Other Canal Produce.	Water Power.	Navigation.	Rents of Buildings.	Fines.	Miscellaneous.	Total.
1	2	3	4	1	2	3	4	5	6	7	8	9	10	11
Rabi (Dry-crop) Assessment for 189 -9 .				Assessment by Ex. Engineer, realizable by Collector during the official year										
Kharif (Monsoon crop) Assessment for 189 -9 .				Assessment by Ex. Engineer, realizable by himself during the official year										
				Balance as per last Return										
				Assessments during the year										
				Total ...										
Increase on previous year				Realizations by Ex. Engineers, Táluka ...										
Rabi				Do. ...										
Kharif				Do. ...										
				Do. ...										
				Do. ...										
				Total ...										
Decrease on previous year				Balance unrealized on 1st April										
Rabi														
Kharif														

* Per details on the reverse.

No. OF 189 .

Forwarded to the Superintending Engineer for Irrigation and the Examiner of Public Works Accounts, Bombay, in accordance with Canal Rule 36.

_____ Executive Engineer for Irrigation

_____ Division.

_____ 189 .

Details of Miscellaneous Receipts.

Sub-heads and Particulars.	To be realized by Collector.	To be realized by Executive Engineer.

APPENDIX No. VII.

Kharif (or Rabi) Season, 189 - 9.

_____ CANAL.

Form of Annual Return of Realizations of Water-rates and Miscellaneous Receipts during the Official Year 189 -9 .

No._____of 189 .

Forwarded to the Examiner, Public Works Accounts, Bombay, and the Superintending Engineer, Irrigation,_____ in accordance with Canal Rule 37.

_____189 . Collector of_____.

Particulars of the demands of Miscellaneous Receipts assessed by the Collector during the Official Year 189 -9 .

Sub-heads and Particulars.	Amount.	Sub-heads and Particulars.	Amount.

Kharif (or Rabi) Season.

_____ CANAL.

Annual Return of Realizations of Water-rates and Miscellaneous Receipts during the Official Year 18 -9 .

Demands, Collections, and Balances.	WATER RATES. Balance of former demands.	Demands received during the Official Year.	Total.	Demands, Collections, and Balances.	MISCELLANEOUS RECEIPTS. Sale of water.	Water-supply of Towns.	Plantations.	Other Canal Produce.	Water Power.	Navigation.	Rents of Buildings.	Fines.	Miscellaneous.	Total.	Grand Total.
Net assessments ..				Balance of former demands											
Deduct—Free Grants and Remissions in the Revenue Department				*Demands during the year.*											
				By Executive Engineer											
Balance ..				By Collector ..											
				Total ..											
**Realizations.*				*Realizations.*											
April 189				April 189											
May				May											
June				June											
July				July											
August				August											
September				September											
October				October											
November				November											
December				December											
January 189 ..				January 189 ..											
February				February											
March				March											
Total ..				Total ..											
Balance unrealized .				Balance unrealized.											

* The realizations made during the year against "Balance of former demands" and "Demands received during the year" should be shown under the respective columns.

Collector of _____

Detail of Remissions authorized in the Revenue Department.

Táluka.	Village.	Collection.	Amount.	Cause of Remission and Authority.

Memo. of Recoveries by Tálukas.

	Water Rates.			Miscellaneous Receipts.					Grand Total.
	Balance of former demands.	Demands received during the Official Year.	Total.					Total.	
Total ...									

Collector of _____

APPENDIX No. VIII.

Form of Annual General Return of Consolidated Revenue.

No. _____ _____ 189 .

Statement of Consolidated Revenue for the year 189 -9, in respect of the _____ District, forwarded to the Examiner of Public Works Accounts, Bombay, and to the Superintending Engineer for Irrigation, in accordance with Canal Rule 38.

_____ Collector.

_____ DISTRICT.

Statement of Consolidated Revenue from Irrigation Works for the Year 189 .

Number.	NAME OF WORK.	Total Acres assessed under the Settlement.		Total Acres cultivated during the year.		Assessment of the year.			Remissions during the year.			Total Consolidated Revenue during the year.	Irrigation Share.	Land Share.	Remarks as to how the shares have been arrived at and the authority under which calculated.
		Kharif.	Rabi.	Kharif.	Rabi.	Kharif.	Rabi.	Total.	Kharif.	Rabi.	Total.				

Note.—Percentage of the cost of Collecting Establishment during the year of the Collectorate is _____

Annas and pies and fractions of an acre omitted.

Land share ..... Rs.

Irrigation share .... „

Rs.

_____ 189 .

Collector.

APPENDIX No. IX.

Form of Annual Return of Water-rates, &c., recovered by the Revenue Department.

Kharif or (Rabi) Season.

No._____

_____ 189 .

Return for the year 189 -9 in respect of the_____ District_____, forwarded to the Examiner of Public Works Accounts, Bombay, and the Superintending Engineer, Irrigation, in accordance with Canal Rule 8.

_____Collector.

Kharif (or Rabi) Season.

Return of Arrears and Assessments, &c., in respect of (1) *Water-rates,* (2) *Miscellaneous Receipts from Canals, &c., in the*_____ *District, Sind, during the year* 189 9- .

Canals.	Water-rate from Irrigation.								Miscellaneous Receipts.										Total actual Receipts during year on account of distinct Water-rates and Miscellaneous Receipts.	Remarks.
	Assessments.					Remissions during year.		Actual Receipts during year.	Owner's Rates on Irrigated Land.	Sales of Water.	Water-supply of Towns.	Plantations.	Other Canal Produce.	Water Power.	Navigation.	Rents of Buildings.	Fines.	Miscellaneous.		
	Unrealized Balance at the end of last year.	Assessment during current year.		Total.	Unrealized Balance at the end of current year.															
	Amount.	Acres.	Amount.	Amount.	Amount.	Acres.	Amount.													
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

_____ }
_____ 189 . }

Collector.

PART VI.

(1) RULES UNDER BOMBAY ACT XI OF 1852, SCHEDULE B., SECTION 10, AND THE BOMBAY SUMMARY SETTLEMENT ACT, VII OF 1863, SECTION 2, CLAUSE 3.

1. An inquiry into the title by which any land held for service is enjoyed may be instituted from time to time by such officer as Government may direct.

2. Lands originally held for service, and which have been continued, or may hereafter be continued under section 15, Bombay Act III of 1874, on condition of payment of a certain portion of the assessment thereof in commutation of service, shall continue to be held in accordance with the terms of the sanads issued or hereafter to be issued, in confirmation of the said commutation settlements.

3. Service lands, in respect of which no such commutation settlement has been effected, and which have been already declared by Government, or by any officer acting under the orders of Government, to be resumable on the demise of certain persons, or on the extinction of certain families or lines of descent, shall be resumed accordingly.

4. Service lands which do not fall under either of the two last rules shall be continued, subject to the provisions of Bombay Act III of 1874, and of any other law for the time being in force relating thereto, to the heirs of the present holders, or in the event of the same being at any time lawfully alienated, to the heirs of the alienees, without restriction as to adoption or female or collateral succession; but such lands shall be resumed in default of any heir in whom, in the ordinary course of descent, the deceased holder's private property would vest, and shall not be liable to be dealt with under the ordinary law for the time being in force relating to intestate property:

Provided that if Government are at any time satisfied that the service in respect of which any such lands are held is no longer performed, or that its performance is no longer necessary, or that for the service performed the remuneration derived from the profits of the enjoyment of such lands is unnecessarily high, or, in the case of service lands to which the provisions of Bombay Act III of 1874 do not apply, if it shall appear that the holder has been guilty of any serious offence or misconduct, Government will, in their discretion, direct either (1) the resumption of such lands, or (2) the continuance of the same, subject to such new conditions as they shall deem fit to impose, or (3) the resumption of a portion of such lands and the continuance of the rest thereof, subject to such conditions as aforesaid.

5. When the sanad issued in confirmation of any service commutation settlement expressly authorizes the alienation or transfer of the service lands, the same shall be continued without question to any

lawful holder thereof on fulfilment of the terms of the sanad. But in every other case contemplated by No. 2 of these rules, and in every case contemplated by Nos. 3 and 4 of these rules, if any land held for service shall at any time be or become alienated contrary to the provisions of Bombay Act III of 1874, or of any other law for the time being in force, or, in the case of land to which the provisions of Bombay Act III of 1874 do not apply, if the same shall be alienated or in any way encumbered without the previous sanction of Government, the said land shall, if Government deem fit so to direct, be forthwith resumed, anything in the said rules to the contrary notwithstanding. (Approved and promulgated by G. R. No. 1364, dated 15th March 1878, R. D.)

RELIGIOUS AND CHARITABLE ENDOWMENTS.

In preventing misappropriation of religious and charitable endowments, the same policy should be pursued in the old provinces to which Bombay Act VII of 1863 and the new provinces to which Bombay Act II of 1863 are applicable.* (G. R. 6411 of 9th November 1876.)

Rules.

1. If the sale of lands held free of assessment for religious and charitable purposes under a decree of the civil court has not yet been confirmed, application should be made to the Subordinate Judge under section 311 of the Code of Civil Procedure to set aside the sale on the ground of material irregularity, and, if the court declines to set aside the sale, an appeal should be made. (Under section 313, the purchaser can apply to have the sale set aside, if the person whose property is purported to be sold had had no saleable interest therein.)

2. If the sale has been confirmed, proceedings should be taken under section 334 of the Civil Procedure Code; but the Collector should not intervene in case of sales under decree of court which are not recent and appear to be "time-barred." In recent and future cases he should intervene as advised by the Legal Remembrancer, and Government will defray the costs in such cases, if necessary.

3. In cases of private sales and alienations not under decree, and of sales under decree "time-barred," it is not desirable that the Collector should bring a suit to enforce the proper application of the endowment; but he should assist, as far as he can, any person who may wish to bring such a suit, and Government will be prepared to consider the propriety, on the Collector's recommendation, of guaranteeing such a suitor the costs of the suit if decreed against him. (G. R. 4908 of 27th August 1875, R. D., and G. R. 6921, of 9th December 1875, R. D.)

*Bombay Act II of 1863, Section 8, clause 3, merely declares the pre-existing common law of this country, that religious endowments, whether Hindu or Mahomedan, are not alienable, though the annual revenues of such endowments may occasionally be pledged for purposes essential to the temple or other institution endowed, but not further or otherwise. (I. L. R., 5 Bom., 393.)

ORDER AS TO JOINT HOLDERS WITH FULL POWER OF ALIENATION OF THEIR RIGHTS UNDER BOMBAY ACT II OF 1863.

Section 11, clause 5, refers to cases of persons holding lands jointly, and in such cases service of notice upon any one of them is made sufficient.

The obvious intention of the Act was to give the Government a right to demand fees or nazrána from any holder who had a power of alienation, whenever that alienation took effect, whether by a transaction *inter vivos*, or by the holder's death. And in this respect the Government is placed by this Act with reference to the holders of land in a position analogous to the position of a lord of a manor to a copyholder tenant under the English law.

The more frequent the alienations are made, and the greater the number of tenants on the court rolls of the manor, the larger is the income of the lord of the manor, and the more valuable is his property.

The object of the Act is to provide for an increase of the Government revenues in consequence "of the change of possession of the land or a part thereof by inheritance or transfer."

It is necessary, therefore, to have the names of the holders entered in the Government books according to the exact amount of land over which they have the power of alienation. (G. R. 1664 of 6th April 1872.)

ADDITIONAL ORDERS AND RULINGS.

Grant of the soil—onus probandi—Partibility.

The grant in jághír or saranjám is very rarely a grant of the soil, and the burden of proving that it is in any particular case a grant of the soil lies very heavily upon the party alleging it. It is for the Government to determine how saranjáms are to be held and inherited; and in cases where the civil courts have jurisdiction over claims relating to saranjáms, in consequence of the non-applicability of the Pensions Act XXIII of 1871, or otherwise, they would be bound to determine such claims according to the rules, general or special, laid down by the Bombay Government. In the absence of such rules, the courts would be guided by the law applicable to impartible property. *Semble* that a saranjám is impartible and on the death of the eldest son descends to his son in preference to his surviving brother. (I. L. R., 6 Bom., 598.)

Construction of Ambiguous words in Grant.

The true sense of such words as "village," "saranjám," ought in every case to be determined by a consideration of all the circumstances, as such words have an almost technical, and therefore an ambiguous, meaning. (Printed Judgments of 1879, p. 14.)

Construction of Grant.

The introduction of the words "as jághír" in a grant to A., B. and his heirs for ever in consideration of the past services of the grantee, was not intended to control the right of alienation inherent in the operative terms of the grant. (I. L. R., 9 Bom., 561.)

Jághír, a life estate.

A jághír must be taken, *primâ facie*, to be an estate only for life, although it may possibly be granted in such terms as to make it hereditary. (I. L. R., 3 Bom., 186.)

Bo. II of 1863, Section 6, Clause 2, a provision for benefit of Government only.

The provision as to the non-recognition of adoption by a civil court relates only to the question of the assessability of lands when raised between Government and a claimant of exemption. Only Government is entitled to take advantage of the provision.

The Inám Commissioner's decision that a village should be continued to the male descendants of the original grantee, regulates the duration of the exemption, and not the enjoyment of it as between the heirs of the original grantee. (I. L. R., 2 Bom., 529.)

Notice must be issued to holders.

Section 7 of Bombay VII of 1863 was intended to protect Government in the event of any mistake having been made in ascertaining the rightful owner to be served with the notice, but was not intended to authorize the Collector deliberately to overlook the rights of holders known by him to be such. Where the Collector believed the peta inámdárs to be holders perfectly independent of the persons to whom notice was issued, and the Collector nevertheless ignored them as persons entitled to demand an enquiry into their title under the Act, it was held that there had not been any summary settlement in respect of the

land in their holding either with any *de facto* or *de jure* holder thereof. (I. L. R., 6 Bom., 247.) Section 28 of Act B. VII of 1863, does not preclude a suit by a person who is not a "holder" in respect of a Summary Settlement. (B. H. C. P. J., 1889, p. 82.)

Sanad cannot be cancelled by Government without assent of all interested.

Where a sanad has been granted under Bombay Act VII of 1863, Government cannot reform it or set it aside without the assent of all parties interested therein. The quit-rent fixed by the sanad is binding alike on Government and the rightful owner, and, if the sanad has been granted through mistake to a person not the rightful owner, the latter may recover the land from the grantee, who will be deemed to have taken the sanad as trustee for the owner. (I. L. R., 4 Bom., 367.)

Grants cannot affect third parties.

The State cannot by its grants destroy rights in the land which are good against itself (Printed Judgments of 1880, p. 279. I. L. R., 4 Bom., 643.)

Inámdár's powers to enhance Rent or enclose Land.

An inámdár's power to enhance the rent of mirási tenant is limited. He cannot demand more rent than what is fair and equitable according to the custom of the country.

Unless the terms of his inám grant authorize an inámdár to enclose a piece of land used immemorially as pasture ground by the inhabitants of his inám village, he cannot do so at will merely by virtue of his being an inámdár. (I. L. R., 3 Bom., 147.)

Inámdar's right to eject Tenants.

The tenants of an inámdár cannot be ejected as mere trespassers. If they are yearly tenants, they are entitled to a clear six months' notice to quit before they can be evicted. If they are tenants for a term of years or for a life or lives, there must be proof of an expiration of the term by efluxion of time or of the falling of the life or lives. (I. L. R., 6 Bom., 70.)

Superior holder cannot distribute liability for Quit-rent among Tenants.

There is no provision in Bombay Act VII of 1863 which enables a landlord or superior holder to distribute the quit-rent among his tenants or inferior holders. (Printed Judgments of 1880, p. 88 : *vide* also I. L. R., 4 Bom., 79, and I. L. R., 6 Bom., 244.)

Enhancement of Assessment no ground for raising fixed Rent.

A superior holder cannot raise the rent of his permanent tenant holding at a fixed rent, on the ground that the assessment on the land has been enhanced at the Government survey. The civil courts cannot relieve the superior holder from the hardship caused to him by this enhancement, and it is doubtful whether Government (except by legislation) can interfere with contracts made by private persons. (I. L. R., 4 Bom., 473.)

Long possession ; evidence of Mirásdárs' title.

Mirásdárs who had sanads and have lost them, and those who never had them, may prove their title by other evidence, and long possession is a strong element in such proof. Perpetuity of tenure may be proved by many means, as for instance, local usage and uniformity of payment of rent or assessment. (I. L. R., 3 Bom., 340.)

Mirasdár relinquishing in favour of another person.

B., a mirásdár, addressed a rájináma to the Mámlatdár, resigning certain miras lands in favour of L. (to whom at the same time he delivered possession of the lands), and containing no reservation or qualification ; *held* that the transfer to L. was complete and the right of B. wholly extinguished. (I. L. R., 1 Bom., 91.)

Mirasdár relinquishing to Collector.

A mirásdár who has given in a rájináma is entitled to eject the tenant put in possession of his mirás lands by the Collector, provided he sue within the period of limitation and the rájináma contain no stipulation whereby he expressly abandons his mirás rights. (I. L. R., 1 Bom., 208. See also p. 577.)

Effect of resumption by Government.

On the resumption of an inám, the inámdár's right to exemption from the payment of the Government assessment ceases, and the inámdár becomes liable to pay such assessment : but all his other rights remain unaffected, and therefore those who were his tenants before the resumption do not cease to be so, and can be ejected, if they are not permanent tenants, or are not otherwise entitled to remain in possession. (I. L. R., 9 Bom., 419.)

In the absence of a contrary intention, the resumption by the British Government of a saranjám or inám leaves the occupancy rights of the saranjámdár or inámdár untouched. A saranjámdár or inámdár may acquire occupancy rights during the continuance of the saranjám or inám. The fact that revenue officers placed the name of a lessee in the Government books as the occupant paying assessment did not make the lessee's possession adverse to the saranjámdár or inámdár and could not prejudice his rights as landlord (I. L. R. 10 Bom. 112.)

Religious and charitable endowments.

The Peshwa, by sanad, granted for the support of the Hindu temple an annual cash allowance out of the Antástha Sadilvár and three khandies of rice out of the Kherij Jamabandi Parbhare to be levied from certain mahâls and forts mentioned in the sanad. Held that the grant was irresumable, inalienable and perpetual. (I. L. R. 6 Bom. 546.)

Sale of right, title and interest of holder of land for temple service.

The property of a temple cannot be sold away from the temple: but there is no objection to the sale of the right, title, and interest of a servant of the temple in the land belonging to the temple which he holds as a remuneration for his service, the interest sold being subject in the hands of the alienee to determination by the death of the original holder or by his removal from his office on account of his failure to perform the service. (I. L. R. 6 Bom. 596.)

Alienation of religious endowment and of land declared to be held for service.

A Hindu religious endowment cannot be sold or permanently alienated, though its income may be temporarily pledged for necessary purposes, such as the repairs, &c., of the temple. A Guru, also Jangám or presiding Lingáyat priest of a Muth, mortgaged two fields in 1863 and died in 1874. In 1882 his successor in office brought a suit to recover possession on the grounds that the mortgage was good only for the life of the mortgagor and that the lands were, under section 8, clause 3, of Bombay II. of 1863, inalienable from the Muth. It appears that in 1862 Government had issued to the mortgagor a sanad declaring the land in dispute his personal inám and continuable for ever as transferable private property subject only to chavthái and nazarána. This sanad was withdrawn in 1888 and another sanad was issued, declaring the land to be service emolument appertaining to the office of the jangám, and stating: "As this vatan is held for the performance of service, it cannot be transferred and in consequence no nazarána will be levied." The nazarána levied under the sanad of 1862 was refunded. It was held that this repayment of nazarána showed that in the opinion of Government a personal inám had been wrongly granted by the sanad of 1862, and there was nothing to show that the decision ultimately arrived at by Government was objected to. After the passing of Bombay II of 1863 it would not have been open to the mortgagor, as it was not open to the mortgagee, to contest that decision in any way, for by section 16, clause (*d*) of that Act it is competent to Government to determine any question as to whether or not any lands are held for service, and the decision of Government, when once made, is final. Since 1868 there could be no question that the lands comprised in the sanad had not been alienable by the jángám of the Muth beyond his lifetime, and as they belonged to a service vatan they were held on a tenure of successive life-estates. After the death of the mortgagor his successor in office was entitled to the whole of the inám land claimed by him. (I. L. R. 10 Bom. 34.)

Summary Settlement where the assessment has been reduced at the Revision Survey.

Memo. by Acting L. R.:—When the quit-rent payable under Bombay VII of 1863, Section 6, Rule 4, in respect of summarily settled alienated land has once been imposed as ascertained by an assessment made by the Revenue Survey, it cannot be affected in any way by any subsequent revision of survey. The rule runs:—

'Quit-rent imposed under this section (section 6) shall not be liable to increase or decrease on any new assessment save in so far as is above in Rule 1 of this section (section 6) provided to the contrary, in the case of lands which have not been already assessed by the Revenue Survey now in progress.'

The Legislature evidently contemplated the possibility of a fall as well as a rise in the assessment on revision, and declared that revision rates should not affect the *quit-rent* once imposed on the assessment.

"2. There are no reasons given for the opinion of the late Mr. Cordeaux quoted in the preamble to Government Resolution No. 8391 of 30th November 1882. Apparently, however, his opinion has reference not to the quit-rent payable under the Summary Settlement Act, but to the judi, salámi or other quit-rent or land-tax 'already paid to Government.' Under section 6, Rule 3, the quit-rent is calculated at one-eighth of the then assessment minus any sum which irrespective of the settlement was payable to Government. This quit-rent could not be affected by revision. But if the sum which was payable irrespective of the summary settlement had been imposed under section 5 of Bombay VII of 1863, (repealed by Bombay V of 1879 and replaced by section 49 of that Act), as a

commuted assessment, such commuted assessment could not be in excess of the assessment to which the land would ordinarily be subject, if no right to exemption existed in respect thereof.

Revision would affect such commuted assessment, it could not affect in any way the quit-rent ascertained under Bombay VII of 1863, section 6, Rule 4.

There is no provision of law which requires *judi* to be reduced to the level of a revised assessment. It is of course competent to Government to allow such a revision as an act of grace. It could not be claimed as of right. (G. R. No. 4733 of 3rd July 1889, Revenue Department.)

Devasthán Lands—Sanads—Consequence of Alienation.

Memo. by Acting L. R.:—(1.) Under Hindu Law devasthán lands are inalienable (Indian Law Report V., Bombay, page 393), but may perhaps be temporarily mortgaged (Indian Law Report IX., Bombay, page 422). The matter does not seem to the affected by Bombay Act VII of 1863. It is true that section 6 says that when the Governor in Council shall under clause 1 of section 2 finally authorize and guarantee the continuance in perpetuity to the holders, their heirs and assigns of land wholly or partially exempt from the ordinary payment of annual land revenue the said lands shall (subject to the enactments contained in section 7) be the heritable and transferable property of the said holders, their heirs and assigns. But this section is qualified by the proviso in section 7: "Provided always that the said rightful owner, his heirs and assigns shall not by this Act or anything therein contained be deprived of any rights or remedies to which he or they would be entitled against the said holder, his heirs or assigns for the recovery of the said lands or any part thereof if this Act had not been passed." The result is that by the application of the summary settlement under Act VII of 1863 the continuance for ever of the exemption from assessment has been guaranteed by Government without regard to the person who may for the time being be in possession. But the rights of persons beneficially entitled to the property are not affected *inter se*. In the case of devasthán lands there may be a good deal of difficulty in deciding who is the real owner, but I think there can be no doubt that the community for whose benefit the temple exists have an interest in the grant which is preserved by section 7 and which gives them power to sue in the proper way for the restitution of the property if diverted to secular uses. The managers for the time being are certainly not the owners. They are mere trustees and the summary settlement does not confer on on them any rights of alienation which they did not before possess.

2. I think in the revised sanads the name of the person who was manager at the time the settlement was accepted should be inserted. The usual way in which I have seen sanads for devasthán land drawn up is in the name of the god with the addition of the manager (*e. g.*, Shri Vithoba, *vahivátdár*). The right to a sanad was complete as soon as the settlement was accepted under section 2, and as it may be difficult to ascertain to whom the right of management may have subsequently passed the safest course will be to enter the name of the manager at that time.

3. I do not think that Government can levy full survey rates from the alienees when devasthán land has been alienated from the institution to which it was granted. According to Hindu Law a grant to a temple is permanent and cannot be resumed (Indian Law Reports VI., Bombay, page 546). And the fact that the managers may have illegally alienated it will not have the effect of making it revert to Government, or justify it in, as it were, participating in the sacrilege by imposing a full assessment on the land. Least of all can this be done in cases to which the summary settlement has been applied. In whatever terms the sanad may have been worded, the effect of section 6 is to guarantee for ever the exemption of the land from assessment wholly or partially as the case may be. In regard to this point I would call attention to Mr. Naylor's opinion No. 757 of 17th November 1875, referred to in Government Resolution No. 6921 of 9th December 1875.

II.—The only thing I think that can be done when the Collector finds that devasthán land has been diverted from its legitimate uses is to take action under section 539 of the Civil Procedure Code with a view to its restoration. No other remedy seems possible in the present state of the law, and probably owing to the difficulty of obtaining accurate information this is not one that can often be resorted to. A Bill for the better administration of the Hindu and Mahomedan endowments was submitted by Mr. Naylor with his letter No. 43 of 15th January 1879, but the proposed legislation was not carried out.

III.—In the above remarks I have referred only to Hindu devastháns. They apply however with equal force to Musalmán Wakf property which by Mahomedan Law is similarly inalienable.

G. R. on above.—With regard to the sanads the safest and simplest course will be to have them made out in the name of the institution, adding the name of the manager with whom the summary settlement was effected, if he is still living, and provided he was the *vahivátdár* at the time of settlement. If he is dead the name of the actual manager should be entered, and the sanad should be handed over to the manager whose name is entered in it. But if the person who would thus be entitled to receive the sanad desires that it be delivered

to some other person his request should be complied with, and where there is a person in possession of the institution and of the property appertaining to it, who is not the manager with whom the summary settlement was effected or his regular successor, and the person in possession claims the sanad against the wish of the said manager or of his regular successor, it should be given to the person with whom the settlement was effected as above shown. In any other case delivery of the sanad should be withheld until the parties obtain a decision in the Civil Courts declaring who is entitled to it. (G. R. No. 6595, 29th September 1887, R. D.)

Collectors to report diversions of devasthán land.

The Collectors throughout the Presidency and in Sind are directed to report for the information of Government any flagrant cases of the diversion of devasthán land from its legitimate uses, which may come to their notice, so that if necessary action may be taken for its restoration. (G. R. No. 7306, dated 26th October 1887, R. D.)

Procedure in cases of Alienation.

RESOLUTION.—Bombay Act II. of 1863 is in force in the Poona District and by section 8, clause 3, of that Act religious endowments, wholly or partly exempted as such from land tax, are declared inalienable. They are equally inalienable where the Act is not in force, for though Bombay Act VII of 1863 contains no such provision as section 8 of Bombay Act II. of 1863, yet religious endowments are in their very nature inalienable. In the case of a religious endowment or public institution no sanad at all is necessary as has been decided by the High Court in the printed judgments* in the case of Manohar Ganesh *vs.* Lakhmirám. A declaratory entry in the Government registers is quite sufficient and any one thereafter interfering with the property assumes the responsibility of a trustee.

2. The Collector may anywhere outside the Presidency Town take steps under section 539 of the Code of Civil Procedure to prevent the fraudulent alienation of land or of revenues constituting an endowment. The simplest course to follow in such a case is to give notice and thereafter exact the full assessment. The possessor who had taken the land by alienation or who declined to fulfil the conditions as trustee of the holding could not take advantage of his own fraud as the Acting Remembrancer of Legal Affairs seems to have thought he could in such a case (*see* Report No. 1117 of 1887, annexed to Government Resolution No. 6595 of 1887.) By taking or giving in alienation, by refusing or omitting to perform the service annexed to the holding, the occupier would have estopped himself from alleging it was sacred property. In the case of land sold in execution this would be specially the case unless indeed the land had been sold under some special circumstances as sacred property—a case that would very seldom occur.

3. In the printed judgment† in the case of Náráyanráo *vs.* Ráji Mahomed, it is pointed out that a Musalmán's duty in relation to a grant for *pir's* tomb is not transferable to a Hindu. Such a transfer therefore would estop the Hindu transferee from setting up any exemption on account of the sacred character of the tenure.

4. In all instances of alienation of religious endowments it is for those who are really interested in the celebration or other continuation of the pious service to come forward and require that it be performed. The Collector's duty is merely to see that an alienation of the public property or revenue is not enjoyed under false pretences. In each case before taking any active measures the Collector should convince himself from such inquiry as he may deem necessary that there is at least *primâ facie* proof that there has been a defeat of the object of the endowment, as by the transfer of a sacred endowment to purely secular hands and purposes. Transfers within a family or priestly class are sometimes allowed, but an alienation to other than sacred uses is not permissible.

5. If the Collector does interfere under section 539, Civil Procedure Code, he should always demand his costs from the defendant and alternatively from the endowment. These costs will in general be only those of taking legal advice and may generally be recovered directly from the relators who appear as plaintiffs in the suit.

6. The general introduction of Act XX of 1863, now in force only in the district of Kánara in this Presidency, would place all these endowments of any consequence in the hands of trustees, and this would perhaps be the best course that could now be adopted. Before, however, taking any action in respect of the extension of the Act to the whole Presidency, Government desire the opinions of the Commissioners and of the Remembrancer of Legal Affairs on the point. (G. R. 2023 of 28th March 1888, R. D.)

Assessment of Devasthán improperly Alienated.

RESOLUTION.—The opinions of the officers whose views have been obtained are divided as to the expediency of bringing into operation in the Presidency generally Act XX of 1863, or a measure framed on the same lines. Two officers (Mr. Candy and Mr. Todd) who have

* Printed Judgments of 1887, p. 169.
† Printed Judgments of 1886, p. 204.

had a long experience of Kánara where Act XX of 1863 is in force are in favour of its extention to the entire Presidency, but owing to the peculiar wording of the Act it possibly might be found difficult to attain the desired end by this simple expedient. There are also many devasthâns the property in which is vested in families or devolves by a series of successions or substitutions regulated by the original constituting document or by prescription. In such cases it would be improper to withdraw the property and management of the endowments from the hands designated by the founders. The proper course would under ordinary circumstances be for Government to control and superintend and prevent waste, but to the adoption of such a procedure objections exist which are insurmountable. Failing this the best course probably would be to provide for the voluntary formation in towns and districts of Committees of Hindus, Mahomedans and members of other religious communities for the purpose of acting as Charity Commissioners over the endowments in which their own communities are interested. These committees should possess visitatorial powers, and a right to recoupment of expenses reasonably incurred in connexion with any institution under their care. They would be appointed by the Collector on his being satisfied that the community desired such an appointment. The control should be left to the Civil Courts so as to keep the administrative body free from all connexion with the endowments. Provision should be made that the appropriation and use of charitable and religious endowments may be varied conformably to their original principles by the Courts in drawing up when necessary improved schemes of management. The Dákor Temple case shows that if the Courts felt free to act they would provide extensively for the beneficial use of sacred funds in the support of schools and dispensaries. On these lines generally the Governor in Council is of opinion that it may be advisable to legislate and the subject will now receive further consideration.

2. In the meantime the concern of Government with the subject from the administrative point of view is to see that if charity and shrines are robbed the public shall not be robbed too by unjust exemptions from land-tax or other impositions, and with this object in view the Collectors should be vigilant and active in exacting the assessment from all property alleged to be tax-free as sacred but held and dealt with in a way incompatible with its alleged sacred character. (G. R. 18 of 4th January 1889, R. D.)

(2) RULES UNDER THE HEREDITARY OFFICES ACT, 1874.

Rules under Part I. of the Act.

Section 1.—The meaning of the term "Regulation Districts" is defined in the Bombay General Clauses Bo. Act X of 1866.*

Section 4.—The wide extent of the words "watan property" as here defined requires particular notice. The profits of watan property are frequently specially mentioned in particular sections. A right to profits is of course an interest in the watan. The definition of the watan, which includes the hereditary office with its rights and privileges, and the property, if any, attached thereto, is believed to be in accord with the notion conveyed in the popular use of the word. The fact that it is often found that the share in a watan bears no proportion to the share in the land or other watan property, shows the distinction between the two things, *e.g.*, a watandár universally recognized as an eight-anna sharer sometimes has no share whatever in the property. This indicates the abstract meaning of the term watan in ordinary parlance, and this meaning is intended in the definition. (G. R. No. 5115 of 8th September 1875.)

The language used in defining "watandár" includes under that term acquirers under the native governments, and those claiming now under such acquirers. It would be inexpedient to re-investigate the title to such acquisitions. As to subsequent acquisitions, the definition only includes those who have acquired them in a *legal* manner; and in determining on this point, it will be necessary to refer to the provisions of Regulation XVI. of 1827 and Act XI of 1843 and to the Settlement Acts. Fraudulent transfers made contrary to the express provisions of the law cannot be considered legal.

Rules under Part II. of the Act.†

Section 5.—Cancelled. (G. R. 2793 of 3rd May 1888, R. D).

Section 7.—Without the previous sanction of Government the part of the watan property assigned for the officiator cannot be alienated in any way to any person whatever.

Section 8.—Section 8 provides a means by which the Collector can enforce contribution for the remuneration of the officiator in the following circumstances:—

(*a*) Where any part of a watan *whatever* or profits have passed by a British decree before the

* Repealed by Bo. Act III of 1886, section 2 and Schedule A.

† For the purposes of Part II. of the Watan Act each taksim should be treated as a separate watan. The land of each taksim will be watan, but a member of the one taksim will have no hereditary interest in the watan land of the other taksim. He therefore as regards that land is not a watandár, and the lands in which he has an hereditary interest must be held to constitute a watan separate from that enjoyed by the other taksim in which he has no such interest. (G. R. No. 6026, dated 25th July 1875, R. D.).

passing of this Act into the enjoyment of any person except the officiator for the time being.

(*b*) Where, before the passing of the Act, any part *whatever* of the watan or profits has *without* a British decree passed into the enjoyment of a watandár not being the officiator.

(*c*) Where *after* the passing of the Act, by means of a British decree, any part except that assigned for the officiator has passed into the enjoyment of any other watandár.

The above three cases may be regarded as exceptions to the procedure provided in section 9, by which a resumption of the property or profits of any part of the watan whatever may be made. Section 9* governs cases fulfilling *all* the following conditions:—

(1) Alienation before the passing of the Act.
(2) Without both a British decree and a proper consent by the Revenue authorities.
(3) To an outsider.

In case (*a*) the reason of the exception is that although the property may have been illegally alienated, it was by decree of a British Court.

In case (*b*) the reason is that the transfer, though invalid and without a decree, was made from one member of the watan to another.

In case (*c*) the reason is that the transfer will be from one member to another, and by a decree, of the part not assigned to the officiator. The case is the common one of a partition or succession at Hindu law, where the civil courts define each person's rights.

Section 12.— It will be perceived from the above, that by section 8 an alienee who has come into possession of profits of watan property under certain circumstances, cannot be dispossessed by the Collector. Hence, under the definition of watandár the alienee has an interest in the watan and is a watandár, but cannot be entered in the register as a representative watandár unless he has established a customary right to serve. On the other hand, if these circumstances do not exist, the Collector *may*, under section 9† dispossess the alienee of the profits. But this section is not, like sections 10 and 11, which refer to alienations made after the passing of the Act,

* Section 9 is inapplicable to alienations made before the Act came into force and which took place either by virtue of or in execution of a decree or order of a British Court, or with the consent of the Collector and a mutation of names in the revenue records. (G. R. No. 2253, dated 19th March 1883, R. D.)

† The statement that section 9 is permissive only and not imperative, applies only to section 9, clause 1, the provisions of which confer a power and do not impose a duty to be in certain circumstances performed.

Section 9, clause 2, on the other hand, as pointed out in Government Resolution No. 9506 of 26th December 1883, is imperative, for it imposes a *duty* to be performed when the occasion arises, and does not merely confer a power to be exercised at discretion. (Memo. by Acting L. R., G. R. No. 947, dated 4th February 1890, R. D.)

Julius vs. Bishop of Oxford—L. R. 5, App., Ca. 214.
I. L. R. 4. B. 489.
Maxwell on Interpretation of Statutes, 218.

imperative but permissive only, and it is desirable to lay down some rule for the guidance of the Collector in exercising the power conferred on him by section 9.

The general rule is that alienations effected before the passing of Act XI of 1843, and in lately acquired territory before the introduction of British rule, shall not be interfered with. The profits thus alienated will, of course, be liable to contribution to the emoluments of the officiator under section 23, and the alienee cannot be registered as a representative watandár unless he has established a customary right to serve under section 26.

Alienations effected since 1843 should not be interfered with when fraud is not apparent, when reasonable consideration was passed, and when the profits have actually been in the enjoyment of the alienee. In other cases the Collector should, according to his discretion, have recourse to one or the other of the two courses laid down in section 12, which section is more fully explanatory of section 9.

*Sections 10 and 11.**—Sections 10 and 11 provide amply against future alienations of an illegal kind. Section 10 applies where the watan is attached or sold by a court. The Collector's certificate leads to the removal of any process attaching the officiator's share, at the instance of any person whatever, and will have the like effect as to the rest of the watan when an illegal transfer has been made to any outsider. The certificate does not apply to property (except that assigned to the officiator) disposed of among the watandárs themselves by a suit *inter se*. (G. R. No. 2793, dated 3rd May 1888, R. D.)

Section 11 provides for summary proceedings by the Collector himself in all future cases not supported by a court's order of (1) alienation of the officiator's share, (2) alienation of any part to an outsider.

The procedure by certificate or resumption under sections 10 and 11 can take effect only where the property affected has been recorded or registered. Hence it will be the duty of Collectors to pay particular attention to those functions.

Section 13.—Watan assigned as the remuneration of the officiator and its profits cannot be attached by civil courts. Where this is done by inadvertence, the Collector can cause the removal of the process.

The Collectors should inform all patels and kulkarnis and all the members of watandár families, that it is their duty to bring to notice all illegal alienations of watan or profits, and all invalid attachments or process placed upon them in future.

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* Sections 10 and 11 of the Act, so far as they affect alienations of life interests in "unassigned" watans, were repealed by implication under Bombay Act V of 1886.

For "if the co-existence of two sets of provisions would be destructive of the objects for which they were passed, the earlier would be repealed by the latter." (Memo. by Acting L. R., G. R. No. 8513, 20th December 1888, R. D). Maxwell on Interpretation of Statutes, page 145.

Section 14.—It is not thought desirable that two or more hereditary offices should be combined except for very substantial reasons.

Rules under Part III. of the Act.

(G. R. No. 4235, dated 27th May 1885.)

Section 15.—This section is intended in the conservative spirit which pervades the Act to give the completest confirmation to settlements in commutation of service already agreed upon by Government and the watandárs.

Section 16.—With the same desire to avoid interference with ancient rights and customs, the Legislature has let alone whatever rights and duties may exist between watandárs and villagers.

Section 17.*—It is inexpedient that the present rates and mode of payment in alienated villages should be altered except when serious disputes arise, or the parties agree on a new scale.

Section 18.—This section was introduced in order to provide for the legal definition of the rights and duties of the village Mhárs and watchmen, and to lead to a peaceful settlement of the quarrels which at present tend to the damage of the Mhárs, who revenge themselves by poisoning the cattle of the ryots. The section can only be used when application is made by a person interested. By employing a village panchâyat to deal with these minute and intricate matters, the Collectors are enabled to avoid an annoying responsibility. Government desire to impress on all the Government service the necessity of showing very great patience in using the panchâyat. Experience has shown that many delays and more informalities are tolerated by such a tribunal, and that, without some aid and even judicious supervision, the institution may become too tardy for action. The Government hope, however, that their officers

* "The haks which a kulkarni is entitled to recover from the cultivators of an inám village are not 'charges on the revenue or rent of villages, or other defined portions of territory.' They are payments for which the cultivators are liable to the kulkarni in addition to the rent, if any, which they pay to the inámdár and are not recoverable from that rent. Moreover it cannot reasonably be contended that the words 'villages or other defined portions of territory' include cultivator's holdings. Such haks as those in question are not covered by the definition of the word 'land' in section 3 (4) of the Land Revenue Code, and the kulkarni, who is entitled to receive such haks, is not in respect thereof a superior holder.

"2. According to the view approved by Government in Government Resolution No. 7884 of 26th December 1881, section 17, Bombay Act III of 1874, is the law which applies to haks such as those in question. This seems to be admitted by the Collector, but he is encountered by the difficulty that in unsurveyed inám villages he cannot tell whether the aggregate of the haks would or would not be more than 'equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages,' and therefore cannot tell whether in determining under that section the amount of payments recoverable by a kulkarni, he transgresses the proviso to the section. An approximate estimate of the amount that would be payable if the village were a Government village will sufficiently satisfy the proviso, and such estimate may be based upon general considerations without requiring the detailed particulars obtainable in a surveyed village." (G. R. No. 3786, dated 26th May 1886, R. D.)

will apply themselves to gaining the great advantage of decisions of panchâyats by exercise of caution and patience, and that the influence of the mámlatdárs and patels will prevent extravagant delays.

The Government are convinced of the necessity of dealing with the village Mhárs and watchmen with the utmost care and caution; it is not at all desirable that the authority conferred by section 18 should be generally used: it will be sufficient to apply it when the disputes grow so high as to lead to fighting, arson, or poisoning of cattle. In fact, it should only be used in the last resort. Generally the ryots and the Mhárs are a fair match for each other: each class is sure to try to interest inexperienced officers in hopes of gaining some petty advantage. A very slight gain in one village will incite the same class in neighbouring villages to petition for settlement—a consequence it is in every way desirable to avoid. Hence the anxiety of Government that section 18 should not be used except under pressing circumstances, and that the decisions when it is used should invariably be those of panchâyats.

Rule under Part IV. of the Act.

Section 22.—The creation of new watans and the assignment of lapsed watans are matters belonging to the Government, and require no directions here.

Rules under Part V. of the Act.

* *Section* 23.—No new line of action in fixing the emoluments of officiators is indicated, or at present desired.

Rules under Part VI. of the Act.

Section 24.—In Part VI. an endeavour has been made to supplement the provisions of the law existing before the passing of the Act, and to give greater form and accuracy, and consequently more binding effect to the registers already instituted by law or departmental orders, or both combined.

The representative watandár is by definition a watandár registered by the Collector as having a right to perform the duties.

The ample inquiry which took place before the passing of the Bill showed the extreme difficulty of legislating for the great number of ancient customs and recent practices, which vary much in each province and even district. In some districts Act XI of 1843 has very recently been applied in such a way as to increase the number of recognized sharers until the watan has become almost unmanageable. In others very careful inquiries have been made and the results registered, and the shares thus settled have become generally known. It is obviously expedient

*It appears that the watan land on which Scale Judi has been imposed according to rules for the payment of remuneration to Patels and Kulkarnis is watan lands the profits of which have been assigned (in part at least) towards the emoluments of officiators, and as such it should be treated as land assigned for the remuneration of an officiator under section 23 of the Bombay Act III of 1874. (G. R. No. 5986 of 24th July 1885, R. D.

to deal in different ways with these two classes. While, therefore, section 26 provides that the Collector shall *not be bound* to recognize appointments and sub-divisions made subsequently to the introduction of Act XI of 1843, which he considers mere practices contrary to the *custom* of the watan, section 73, clause 2, on the other hand, indicates plainly that practices established after the careful inquiries instituted from about the year 1866, A.D., and acquiesced in since, are not to be disturbed; and Government will not be disposed to deviate from the existing registers in such instances without very weighty reasons being adduced.

Government would also draw prominent attention to the different manner in which the words "custom" and "practice" are used in the Act. The practice is by section 26 to be looked at, but so also the records; both are species of evidence of custom. This should be borne in mind where they do not coincide; in many cases it will be found that the practice since British rule began has been to appoint from one or more families, while other families have acquiesced on the understanding that their rights subsisted unaffected. This understanding is often proved by official entries; it often subsists in well-known and undisputed tradition. The Collectors will, of course, subject to the rule contained in section 73, clause 2, bring as much research and experience as possible to their judgment on the evidence, taking care that mere accident shall not prejudice just rights, and at the same time that mere recent practices of sub-divisions shall not be allowed to weaken the village system contrary to the proviso of section 26.

It is necessary that particular attention should be paid, under Part VI of the Act, to decisions of the civil courts in suits instituted before the Act came into operation. Such decisions, Government are advised, should be accepted as evidence within the meaning of section 26 of the Act, and as conclusive evidence so far as they are consistent with the provisions of the Act.

The following rules are therefore to be observed on this point:—

(I.)—Decisions passed by the Collector since 1866 shall not be accepted under clause 2 of section 73 of the Act when they have been set aside or modified by the civil courts, but in such cases the courts' decrees shall be acted upon, so far as they may be consistent with the provisions of the Act.

(II.)—When litigation is still pending concerning any such decision it should not be accepted, nor should any final order be passed under section 73 of the Act until the final decree of the civil courts is obtained, when it should be acted upon as in the case of already existing decrees.

(III.)—Government reserve the right of directing that previous decisions other than the above shall not be accepted in particular cases.

**Rules under Part VII. of the Act.*

Section 40.—Where the Collector has defined the order of service to be that of successive periods, the representative watandárs are entitled to elect an officiator. This procedure meets the views of many of the Revenue officers, who hoped that the best and most influential men would be elected by the good sense of the wátandárs. It is most desirable that this safeguard should be preserved and the popular custom maintained; the Government believe that the influence of the Collector and his Assistants, otherwise secured by the power of veto, will be sufficient to prevent grossly improper election, without interfering with its many advantages.

Rules under Part VIII of the Act.

The sections in Part VIII. go much into detail as to appointments and removals of watandárs and deputies, and require no particular discussion.

Section 42.—With reference to section 42 it should be remembered that it is the wish of Government that representative watandárs should serve in person and that, as a rule, the appointment of deputies should only be permitted in cases in which watans are owned by sardárs of so high a rank that they could not be reasonably expected to serve in person.

†*Section 43.*—The determination of the number of officiators required should be made by the Collector under section 43, with much regard to the condition of family as well as to the needs of the village. Neither in this nor in any other matter is general or rapid change desirable. With a view to preserve the family and to secure the most respectable servants, it is provided that deputies must be watandárs except in particular contingencies. The broad appli-

* The portion of the Rules relating to Matádárs is omitted in this edition, the law now applicable being the Matádárs Act, Bo. VI of 1887. Elections under section 17 of that Act are regulated by the Rules made under section 18 thereof—*Vide* Notification No. 1339, *B. G. G.*, 1888, Pt. I., p. 198, *et infra*.

† In registering a watan it is not necessary to say anything about the performance of the police pátil's duty in the way of assigning the right to it to any person.

Under section 43 the Collector determines the number of officiators required for the duties, *i.e.*, he says one officiator can do all the duties, both revenue and police, or the village being large, *two* officiators are required contemporaneously. But he does *not* say, of these A is to do the revenue and B the police duties. When the Magistrate appoints a police pátil under Bombay Act VIII of 1867, section 5, he respects the settlement of officiators as far as he can. Thus Government decided in Resolution No. 7127, dated December 20th, 1875, that when there are two officiators, the Magistrate gives the sanad of police pátil to whichever of the two he pleases. (G. R. No. 4157 of 10th June 1886, R. D.)

In practice there are two classes of cases :—

1st.—When the office of police pátil has been customarily given to the revenue pátil. In such cases the representative watandár, if fit for revenue office, will presumably be also fit for police duty and no question of nomination of a deputy will arise. If the representative watandár is not qualified for the revenue duty and is allowed to appoint a deputy, the Magistrate can either select a police pátil from the other representative watándars, if any, or if there are none, or none fit, can invest the deputy with the office of police pátil.

cation of the term watandár to collaterals should not be lost sight of.

**Section 54.*—When the Collector appoints a deputy the term should be five years.

Rule under Part IX of the Act.

The provisions as to penalties require no remarks.

Rules under Part XII of the Act.

Section 69.—Section 69 imposes on the hereditary officers the duty of rendering both customary services and those specifically required by law. Where doubts exist, Government will determine under section 83.

Section 71.—The privilege of signing village papers, where it has been customary, is preserved to heads of families whether representative watandárs or not. This concession to the feelings of an influential

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2*nd.*—When the office of police pátil is held as a separate watan from that of revenue pátil. In this case if there be only one representative registered by the Collector and he is unfit to serve, but not unfit to nominate a deputy, the Magistrate should call upon him to nominate under Chapter VIII of the Watan Act. If there be more than one respresentative registered by the Collector, and the watandár whose turn it is to serve is not fit, the Magistrate may appoint any other registered representative, and if none are fit, may call upon the watandár whose turn it is to serve to nominate a deputy under Chapter VIII of the Watan Act. (G. R. No. 3057 of 25th April 1889, R. D.).

Section 5 of Bo. Act VIII of 1867 binds the Magistrate to appoint as police pátil the person having sole hereditary right to that office if there is one, but in case there is no such person and there are two or three claimants having an hereditary interest in the office, the Magistrate is not bound to follow particular order of rotation but can select from among them. He would not be justified, however, in selecting from a branch which in consequence of some ancient alienation or family custom had long lost its right to perform police duties.

The question appears to be entirely one of custom, and that can be decided by the Collector when preparing the watan register. Section 25 imposes on him the duty of determining the custom of the watan as to service, and in the register he can note down any rules or limitations which are authorized by custom.

In cases in which there are distinct takshims belonging to radically different families and attached to distinct offices, there is no objection to treating the several takshims with their respective offices as district watans. But where the different branches of the family spring from one original watandár, it does not appear necessary to do so. The heads of the families can be registered as representative watandárs of one watan. If the Collector thinks that one branch has by custom acquired the sole right to serve as police pátil, he can register such right, and the Magistrate who makes the appointment of police pátil will be bound to recognize it under the first sentence of the clause from the Police Act above quoted.

It will be observed that the mere fact of registration as a representative watandár does not necessarily include the right to discharge at some time or other every function of pátil, for in each case it is the duty of the Collector to determine the custom of the watan after consideration of the practice heretofore observed from the earliest period for which there are records or other evidence available. (G. R. No. 5902 of 2nd September 1887, R. D.)

*The provisions of section 54 of the Act do not appear to be opposed to permitting a watandár who has resigned office owing to inability to serve, to nominate a deputy for the remainder of his term of office which is less than five years; but when the officiating watandár resigned the Kulkarniship for the purpose of taking office in another village he should be deemed to have vacated. (G. R. No. 451 of 20th January 1886, R. D.)

class of men should be worked in the spirit in which it was enacted.

*Rules under Part XIII of the Act.**

It is hoped that the defined procedure set forth will simplify investigations. The Collector's proceedings are, by section 74, under the control of the Revenue Commissioner, and for this reason, and in order to secure discussion, some uniformity and reference to general as well as local reasons, Government direct that all references, reports and returns relating to watans on which Government have to pass order should be forwarded through the Revenue Commissioner, and submitted with his remarks or opinion.

†*Sections 76 to 78.*—The rules as to appeals place decisions of the Revenue officers on much the same footing as those of Magistrates of the first class; there is more safeguard of written proceedings than under the former law, and thus more finality is secured.

Appointment of a Deputy to the office of the Police Pátil.

Section 79.—But, as already noticed, some uniformity is desirable, and section 79 gives Government a general power of revision, which will be exercised where decisions are passed contrary to the provisions of the Act. The Revenue Commissioner should report such cases. This section, it is to be observed, gives Government alone the power of calling for cases; and on the principle of *expressio unius est exclusio alterius* neither the Collectors nor the Revenue Commissioners have the power to call for cases which are not brought before them by regular appeal, since the decision of an Assistant or Deputy Collector under the power vested in him (which must be delegated to him under section 10, Bombay Act V of 1879) is as good and as conclusive as that of the Collector himself, and is not therefore liable to be reviewed by the latter. Government consider it, however, desirable that the Revenue Commissioners and Collectors should be empowered to call for cases disposed of under the Act by officers subordinate to them, even if no appeal be presented, and under section 82 of the Act this power is hereby conferred on the officers named. Should it be put in force it will not be in the Col-

* Section 73 is not exhaustive in its enumeration of investigations requiring record in writing; and though it does not require an order refusing the service of a representative watandár to be so recorded, section 45 (*e*) as amended by section 9 of Bombay Act V of 1886 does.

Section 45 only contemplates such a refusal in the case of a representative watandár who is *personally* of bad character, and such refusal must be preceded by a summary enquiry regulated by section 195, Bombay Land Revenue Code, in which a minute of the proceedings must be recorded in the Collector's own hand and must embrace the material averments of the parties. (Memo. of Acting L. R., G. R. No. 5365 of 27th July 1889, R. D.)

†Not only an appeal but a second appeal will lie from a decision or order passed without recorded investigation. (Memo. by Acting L. R., G. R. No. 8506 of 8th November 1889, R. D.)

lector's or Revenue Commissioner's power to review or alter the decision, but only to report upon it to Government under section 79 of the Act.

Section 81.—When it is necessary to take steps under section 81 for the recovery of any payment in kind, the Collector may direct that if the person liable for the payment does not, upon demand, pay what is due by him in kind, steps shall be taken for enforcing payment of the money value thereof at the market rates of the day. (G. R. No. 831 of 2nd February 1886, R. D.)

Section 82.—Government desire that the Collectors should, in suggesting general rules, adhere, as far as the Act permits, to existing arrangements, except where serious reason exists for alteration, or where trifling changes lead to more general uniformity.

When it has been the custom for a member of each of two or more takshims to serve contemporaneously, and in one or more of such takshims a member of each of several families has performed the duties in successive periods, the custom as to contemporaneous service shall, subject to the provisions of section 43, be recognized, and the rights of the representative watandár, or of the representative watandárs of each takshim as to service, shall be determined under the provisions of the Act as if each such takshim constituted a distinct watan.

(Notn. No. 6337, *B. G. G.* for 1887, Pt. I., p. 807.)

When on enquiry it appears to the Collector that there are strong reasons for doubting the fact or legality of an adoption reported to him under section 34 of the said Act, he may make an order suspending registration of the name of the alleged adoptive heir until such time as the adoption is declared valid by a competent Court: Provided that in any such case he shall fully record the grounds of making such order and shall communicate them to any party concerned, and provided that he may at any time for sufficient reason set aside such order and direct registration of the name or further enquiry as he may think suitable.

Costs of copies of original papers recorded in watan proceedings.

When any party in a watan case who has filed any document in evidence applies to have such document returned to him, the document may be returned. But in every such case a copy of such document properly certified and made at the expense of the applicant shall be substituted for such document in the record of the case. (G. R. No. 148 of 11th January 1886, R. D.)

ELECTION RULES UNDER THE MATA'DA'RS ACT, B. VI OF 1887.

27th February 1888.

In exercise of the power conferred by Section 18 of the Matádárs Act, No. VI of 1887, published at pages 1—11 of the *Bombay Government Gazette* of the 30th January 1888, Part IV, His Excellency the Governor in Council is pleased to make the following rules :—

1. On, or in anticipation of, the occurrence of a vacancy in the office of Patel in any village to which section 15 of the above Act applies, the Collector, or with his sanction, an Assistant or Deputy Collector, shall issue a notice in the form hereto appended to all the Matádárs of the village, fixing a date and place for the election of a Patel. (Notn. No. 1339, *B. G. G.*, p. 198.)

2. The date fixed for the election shall not be less than 14 days from the date of notice.

3. The notice shall be endorsed by all the Matádárs of the village, or by as many of them as can be found, and a copy shall be posted up at the Chowra or at some other conspicuous place in the village. The original notice endorsed by the Matádárs shall be returned to the officer issuing it before the date fixed for the election.

4 Only females shall be allowed to vote by proxy, such proxy being on paper bearing one rupee stamp and duly attested.

5. Each voter shall, in the presence of the presiding officer, write or cause to be written the name of his or her nominee on a piece of paper which shall be signed by the voter.

6. No elector shall vote for more than one person, provided that an elector who is the guardian of a minor Matádár of the village, shall have two votes on each question.

7. An election fails,—

(1) if a majority of the Matádárs do not attend in person (or in case of females, by proxy) ;

(2) if no person eligible under the Act obtains the votes of more than half the total number of Matádárs of the village ;

(3) if the person elected is unfit or disqualified, or within 14 days declines, or fails to accept, the appointment.

8. If a majority of the total number of Matádárs then and there agree upon the term, exceeding five years, during which their nominee is to serve, he shall be appointed for such term. Failing such agreement the term shall be five years (Section 23).

9. When an election fails, the presiding officer shall call on the representative Matádár of the family, whose turn it is to officiate, to serve in person or by deputy.

Form of Notice referred to in Rule 1.

Whereas a { Revenue and Police } Patel has to be appointed for the village of in the Táluka of the District, from the day of 189 , notice is hereby given to the undermentioned Matádárs of the said village to appear at on the day of 189 , at o'clock in the office of the Collector of , there to elect a member of the family of Matádár, to serve in the abovementioned office for such term, not less than five years, as the Matádárs may, on the date above mentioned, agree to fix :—

Matádárs.

1
2.
3.
4.

2. The abovementioned Matádárs are also hereby informed that unless at least of them agree before me, on the date above specified, in nominating a qualified member of the family abovementioned, the representative Matádár whose turn has arrived will be appointed.

Date of issue.

Collector.

ADDITIONAL ORDERS AND RULINGS.

Forfeiture and disposal of Watan Land for Arrears.

Watan land is "alienated land" within the meaning of clause 19, section 3 of the Revenue Code, and when an arrear of land revenue is due in respect of any such alienated holding, the Collector may, under section 153, declare the holding to be forfeited to Government. When the holding has been thus forfeited, the Collector, may, under section 57, take immediate possession, and it then can either be sold or be disposed of under rules or orders made in this behalf by Government under sections 56 and 214 (*e*).

If the holding is simply sold by the Collector as an alienated holding, the purchaser would become entitled to the same exemption from land revenue as the defaulter enjoyed. Government will no doubt think it inexpedient to continue exemptions in this way without any necessity, and the class of cases referred to by the Collector is therefore one calling for an express order under sections 56 and 214 (*e*). The Collector, when he has forfeited any such alienated holding, shall not sell it, but shall enter the land comprised therein in his records as unoccupied unalienated land, and deal with it under the law and the rules relating to land of that description. The arrear of *judi* will still be recoverable from the watandárs by any of the other means allowed by Chapter XI of the Code, and if not recoverable at all within what Government consider a reasonable period may, if Government think fit so to direct, be written off.

The loss of land appertaining to a watan will not necessarily involve the loss of the right of service. According to the definition in section 4 of the Bombay Hereditary Offices Act, "the watan property, if any, and the hereditary office and the rights and privileges attached to them together constitute the watan." There may still be a watan, although no partially exempt land is attached to it. Section 32 of the same Act enacts that "when watan property of profits has been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the watandárs were still in receipt of such emoluments (G. R. 3016 of 10th June 1880).

Extent of Power under section 60.

Memo. by the L. R.:—The power of forfeiture conferred on Government by section 60 of the Hereditary Offices Act extends only to the particular watan in discharging the duties for which an offence has been committed. (G. R. 9728, 5th December 1884, R.D.)

Power of Government to resume Watan in hands of Strangers.

A watan being an estate held from Government is subject to special rules both as to devolution and as to the capacity for proprietorship. Government has usually bestowed it on a particular family with reference to the special fitness of that family on account of caste or social or political status for the performance of certain public services annexed as an obligation, though not as a condition to the grant. Enjoyment by that family is thus an essential element of the tenure. This being so, the tenure fails on the entail, so to speak, being broken and the property passing into the possession of one not a member of the family of beneficiaries. This is recognized in an important Full Bench judgment of the Bombay High Court, reported at pages 98—132 of the Indian Law Reports, IX, Bombay Series. If then the original family of watandárs have allowed themselves to be ousted so long or in such wise as that they can no longer assert their rights against the intruders, the result is not to destroy the latent ultimate right of the donor on terms as reversioner, *i.e.*, Government, but to bring the reversionary right into immediate operation. The ousted watandárs if they have conspired with the intruders have been guilty of a fraud on the donor tending to the destruction of the residuary estate, which is recognized as a ground of forfeiture of the tenure. If they have been put out by force or fraud or the operation of any particular law, their estate has simply perished and that out of which it was carved, (*viz.* the estate of Government) becomes integral again. The intruders cannot as against Government take advantage of the fraud or the negligence of the tenant watandárs so as to destroy the higher estate of the Sovereign except when the right of the latter is barred by limitation. Watan lands are also service lands, and Government under general rules may resume them at discretion (G. R. 6890 of 13th September 1889, R. D.)

Question as to whether Widow's own Heirs in absence of Husband's Heirs, succeed to Property inherited by her from her Husband in bar of Government's claim to escheat.

According to the general Hindu law as interpreted by recent decisions it seems clear that a widow's own heirs can never succeed to immoveable property inherited by her from her husband. See Mayne's Hindu Law, paragraphs 519—525, Bhugwandas *vs.* Mynabai, 11 Moore's I. A., 487, 513, and Collector of Masulipatam *vs.* Cavaly, 8 Moore's I. A., 529. But this like all other rules of Hindu law is liable to be overruled by proof of a special custom to a different effect; and the passages in Steel, 231, West and Bühler, 540 and 541, and the opinion cited at West and Bühler, 546, point to there being, in some parts at least of the Deccan, a custom under which a widow's own heirs do, in absence of any heir of her husband, succeed on her death to immoveable property inherited by her from him. (G. R. No. 6288, 27th August 1889, R. D.)

Resumption of Cash Allowances for Village Services no longer performed.

Memo. by Acting L. R. :—The Commissioner, C. D., questions whether Government Resolution No. 512 of 24th January 1882 and No. 6310 of 25th August 1883, authorize the resumption of cash allowances originally granted as remuneration to village servants useful to the community on attempted alienations thereof by the holders.

2. The resolutions in question do not expressly authorise such resumptions, as they mention only the resumption of land by levy of full assessment. But the intention of Government by implication appears to have been that the same rule should apply to cash allowances. The original reference on which these Resolutions were passed dealt with such cash allowances as well as with land, and after considerable correspondence, on which it was decided that the Bombay District Hereditary Offices Act should not be extended so as to apply to such offices, Government arrived at the conclusion that all the sanads which have been issued prohibited alienations of the property to which they relate.

Letter No. 741, dated 25th March 1881, from the Commissioner, C. D., quoted in the preamble of Government Resolution No. 2188, Revenue Department, 14th Apri 1881.

The Commissioner, C. D., in reply to Government Resolution No. 5705, Revenue Department, of 30th September 1881 reported that this condition was included in all sanads issued to village servants useful to village communities in all the Districts of his Division.

In his No. R.—4875 of 9th December 1881, *vide* preamble to Government Resolution No. 512, Revenue Department, 24th January 1882.

3. The Bombay Hereditary Offices Act undoubtedly has no application to such cases (*vide* Government Resolution No. 5705, Revenue Department, dated 30th September 1881), and if a cash allowance is conditioned on performance of service by a particular family, it is, I think, perfectly competent to Government to withhold it from any claimant outside the family of the original grantees. Under the Pensions Act (XXIII. of 1871) no suit could lie, should Government determine to withhold the allowance from the original grantee or from the person claiming as his transferee. (Indian Law Reports, 1 Bombay 80.)

4. In the instance referred to by the Commissioner, C. D., in paragraph 3 of his letter now under reference, a condition against alienation was expressly included. In that particular case the allowance was necessarily inalienable out of the family as it was attached to a religious office. Government could not of course be liable to suit in case they determined to resume such cash allowance, but such grants are not in their nature resumable (West and Bülher, page 398), "the holder of the office can be constrained if necessary to perform the duties when properly called on." Government could withhold payment from any alienee outside the family, but it would be contrary to the general principles of the Hindu law to withhold the emoluments of a *religious* office from the family of the original grantee. RESOLUTION.—The Governor in Council is pleased to direct that the orders contained in G. Rns. No. 512, dated 24th January 1882, and No. 6310 dated 25th August 1883, shall be regarded as applicable to cash allowances as well as to service lands. (G. R. No. 2643 of 5th April 1889, R. D.)

Resumption of Lands held for Service useful to the Village Community.

The terms of the settlement made in the case of village servants useful to the community should be held applicable to all cases in which their service lands have ceased to constitute the remuneration of such servants, and the lands should be resumed at once irrespective of the date of alienation.

It should be borne in mind that by resumption in such instances is only meant the levy of full assessment from the person in occupation other than the original grantee or his descendants. The present holders should therefore be allowed to remain in possession on payment of the full assessment to which the lands are liable.

If the original holders or their descendants have thought proper to alienate their lands in which they had only a life-interest and have thus deprived themselves of the remuneration provided for the performance of their duties, they themselves are alone to blame for their own action, and the Governor in Council does not consider them to be entitled to any consideration. The full assessment to be levied in the case of these alienations should accordingly be credited to Government (G. R. No. 6310 of 25th August 1883, R. D.).

By the orders in G. R. No. 3045, dated 16th June 1874, it was directed that when watandárs did not accept a commutation settlement, service up to the full value of the watan should be exacted. (G. R. No. 6260, dated 16th September 1887, R. D.)

Lands held by Non-Watandári Pátels.

When lands are held by non-watandári patels for service and have been alienated without the previous sanction of competent authority, they are resumable at the pleasure of Government. The Collector should therefore resume them and should assign to the officiating patel in each case so much of the land resumed, including the land in his own occupation, as may be required to provide for his remuneration according to scale. If any

surplus land remains after providing for the remuneration of the officiator, such surplus may be re-granted to the present occupants at survey rates.

The officiating patels should continue to be nominated by the Collector according to present custom, and they should be made to understand that they hold the lands assigned to them so long only as they continue to serve. It is not desirable to create new watan rights under Act III. of 1874 (G. R. 1170 of 5th February 1881.).

Alienations of Commuted Service Land.

Aliences of long standing should not be interfered with whether the settlement was made with them or not. (G. R. 656 of 23rd January 1885, R. D.)

Village Servants useful to community. Resumption on Alienation.

Bombay Act III of 1874 does not appear to be applicable to village servants useful to the community. All the sanads which have been issued to such servants prohibit alienation of the property to which they relate. Under the terms of the settlement, land which ceases to be held as remuneration for service to the village community may be resumed (G. R. 5705 of 30th September 1881, and 512 of 12th January 1882).

Where service is still required and performed.

A settlement was made, not with the Kázi's family, but with the family which, so long ago as A. D. 1805, had purchased the Kázi's land. The sanad granted to this latter family recognizes them as the holders of the land 'claimed as emolument appertaining to the office of Kázi,' and declares that that land shall be continued as the emolument of the office so long as the village community may require the services, on the conditions that the holders shall perform the usual services to the community and shall continue faithful subjects of the British Government.

2. If these two conditions are fulfilled and the village community still requires the services, the land cannot be resumed. The mere fact that the land is held by strangers is not a sufficient ground for resumption, when the settlement was made with those strangers and the conditions of the sanad are fulfilled by them. They of course cannot in this instance perform the duties in person, because they are Hindus; but if they perform the services vicariously, that is a sufficient compliance with the sanad, and the land may be said to be 'in the enjoyment of the persons who perform the services' within the meaning of paragraph 2 of Memorandum No. 966 of 21st July 1883, quoted in the preamble of Government Resolution No. 6310 of 25th August 1883 (G. R. No. 4996 of 21st June 1884, R. D.).

Collector's Procedure if he considers there are no heirs.

Memo. by L. R:—The provisions of section 36 of the Hereditary Offices Act prescribe the course which is to be observed by the Collector ordinarily, *i.e.*, when there are heirs of a deceased representative watandár and the only question is which of them is entitled to be recognized as representative watandár in the place of the deceased. For the uncommon case of there being no person in whom the right of inheritance appears to the Collector to vest, the section makes no provision; but in such a case the Collector, as the representative of Government, is clearly entitled to refuse to recognize any claim which he deems to be unfounded and to treat the watan or the share of the deceased representative watandár as lapsed

2. Section 22 of the Act shows that it was contemplated by the Legislature that watans or parts of watans will occasionally lapse to Government, and it cannot have been intended that under section 36 the Collector should be compelled to recognize the claim of a person to succeed as heir, merely because he produces a certificate of heirship, notwithstanding that the Collector may have good reason for questioning his title. A certificate of heirship is granted under Regulation VIII of 1827 upon a very summary inquiry and frequently *ex parte*. The Civil Courts themselves do not regard the orders passed in such inquiries as final; the person to whom a certificate is granted is merely held to be *primâ facie* heir.

3. In every case, therefore, in which the Collector considers that there is no person entitled to succeed to a watan or share of a watan, he is justified in declaring such watan or share of a watan lapsed. This declaration may be made by him as soon as his inquiries satisfy him on the point; but whether he should arrive at a conclusion and declare a lapse, of his own authority, or after reference to the Commissioner or to Government, is an administrative detail as to which it is open to Government to prescribe such rules as they think fit.

4. The declaration of a lapse and the appropriation of the watan or portion of a watan to which such declaration applies as the property of Government, will involve Government in liability to a civil suit at the instance of any person who deems himself entitled to succeed to the property as heir of the deceased, and there is no bar to such a suit except the twelve years' limitation rule. If therefore a person comes forward within the above period and lays claim to the property, his claim ought not to be set aside, because he did not appear sooner or because the watan or portion of a watan has already been treated as a lapse; but his claim ought to be enquired into as that of a person who may hereafter sue Government in the Civil Courts, and if he has obtained a certificate of heirship, that fact should be regarded as indicating that he has some evidence in support of his claim. Whether any such claim should be finally resisted or admitted depends, of course, upon the merits of each case. There is nothing in the Hereditary Offices Act that prevents its being admitted and the claimant's name being registered under section 36 at any time.

RESOLUTION.—As regards paragraph 3 above the Governor in Council doubts the necessity for any formal rules. Cases of the nature in question are very rare and a Collector may be trusted to exercise his own discretion in dealing with them, proceeding in the manner mentioned in paragraph 4 of the Legal Remembrancer's report. If any person whose claim is rejected is dissatisfied, he will naturally appeal to the Commissioner and to Government, and the propriety of the Collector's order can then be considered (G. R. No. 531, dated 19th January 1885, R. D.).

Illegitimate Sons of Sudras are Heirs.

Memo. by L. R :—Amongst Sudras the right of succession undoubtedly devolves on illegitimate sons, in the absence of legitimate sons, son's sons, or son's son's sons. I am not aware that watan property forms any exception to the general rule of succession in this respect (G. R. No. 104, 7th January 1885, R. D.)

Heirship, Claims to Certificates of—Government Pleader to be instructed.

In applications in the District Court for certificates of heirship in cases in which alienations of watans are liable to be perpetuated, or in which Government is otherwise interested, the Government Pleader should be instructed to watch the proceedings of each case, and the Collector should see that the evidence of heirship tendered is trustworthy (G. R. 945 of 15th February 1881).

Heirs—Sons by different wives.

In *Pedda Rámapa* vs. *Bangari Sheshaunna* (Indian Law Reports, 2 Madras, 286) the Privy Council distinctly held that there was no distinction between the son of a first wife and of any subsequent wife. It was held generally that 'among sons born of wives equal in their class and without any other distinction, there can be no seniority in right of the mothers'.

It is now settled law that the junior son of a first married Hindu wife takes no precedence over the senior son of a subsequent wife, if both wives are of equal class. (G. R. 2499, 21st March 1884, R. D.).

Meaning of the term "Nearest Heir" in section 36.

Report by L. R :—"The term 'nearest heir' which is used in section 36 of Bombay Act III. of 1874, is not a very accurate one: but looking to the fact that only one person's name can be registered in the room of that of a deceased representative watandár, whilst there may frequently be several co-heirs of the deceased person all equally near to him in relationship, the meaning of the Act is not, I think, doubtful. The context shows, I think, that what the section means is that the Collector should recognize as representative watandár the senior amongst co-heirs of the same degree of relationship and the nearest relation amongst heirs of different degrees of relationship. And by senior I do not mean the eldest in age, because a second or third wife is often older than her predecessor or predecessors; but I mean the one who, whether by birth or marriage, first acquired the status which gave him or her the right of inheritance. (G. R. 3530 of 2nd May 1884, R. D.).

Bom. V of 1886, section 2, Meaning of word "through". Daughters take absolute estate.

The word "through" in section 2 implies some intermediate links between the claimant and the last holder and does not apply to the case of a son claiming his mother's property as such. It can hardly be said that a person claiming direct from the last holder in whom the whole estate was vested claims through such holder.

The Full Bench decision of *Bhagirthibai* v. *Káhunjerai*, 11 I. R., Bombay, 285, decided that under Hindu law prevailing in the Presidency of Bombay a daughter inheriting from

either mother or father takes an absolute estate which passes on her death to her own heirs and not to those of the preceding owner. This decision overruled the opinion expressed in the case of Dulpat *v.* Bhagvan, 9 I. R., Bombay, 301, that daughters would not take such an absolute estate in cases governed by the Mitákshara, and lays down the law on the point for this Presidency. It follows that the law over the whole of the Bombay Presidency is that the heirs of a daughter on whom a watan had devolved before Act V of 1886 came into force will succeed to it on her death. (G. R. No. 2793 of 3rd May 1888, R. D.)

Recognition of Adoption when no notice given.

Memo. of L. R.:—"No doubt the words of section 35 of the Hereditary Offices' Act clearly prohibit the Collector from recognizing any adoption of which notice has not been given as provided in sections 33 and 34, unless upon production of certificate of heirship or of a decree of a competent Court establishing the validity of such adoption.

"2. Where there are, or are likely to be disputes amongst the watandárs themselves either as to the fact or as to the validity of an alleged adoption, this provision should, I think, be strictly enforced. But if the question affects nobody but the alleged adoptee and the Government, it is competent to Government, if they think fit, to dispense with the necessity for a strict compliance with the law, and when the adoption was made with the Collector's sanction and notice of it was not given under section 33 through oversight merely, there would be good reason for not insisting upon the observance of the letter of the law.

"On the other hand, if there is no dispute amongst the watandars as to the adoptee's claim he will have no difficulty in obtaining a certificate of heirship in the District Court. Some trouble and some expense are all that it will involve." (G. R. No. 6102, 30th July 1884, R. D.)

Sanction to Adoption by a Kulkarni.

The sanction of Government to an adoption by a kulkarni or his widow, or by a co-parcener in a kulkarniship or his widow, is not necessary to give it validity. (I. L. R., 1 Bom., 607.)

Adoption—Right of Adoptee to be registered.

Section 33 appears to have been intended to enact that if any watandár who is or was head of a family, or chief representative of a branch of a watandár family (or his widow), has adopted an heir before the Act came into force notice of such adoption must be given to the Collector within 12 months of the Act coming into force, and, if this is done, the adoption is conditionally recognized, and the right of the heir to be registered is admitted as if he had been a born son of his father by adoption. (G. R. 5559 of 24th September 1881.)

Posthumous adoption to deceased son of sole surviving male representative.

A sole surviving male representative of a pátil watandár family gave notice under Section 34 of Bombay Act III 1874 of adoption of an heir selected by his daughters-in-law. Strictly speaking, the terms of section 34 of the Hereditary Offices Act are not applicable to the circumstances of the case, because the adoption has not been made by a registered representative watandár or his widow. But the adoption has been made by the widows of the deceased son of the present representative watandár with his approval, and the adopted son becomes by virtue of the adoption the heir of the present representative watandár in preference to the widows who have adopted him, and if he survives him, will be entitled, under section 36, to be registered as representative watandár in his stead. In these circumstances the Collector should register the name of the adoptive boy as heir, on the ground that the provisions of the Act have been as nearly complied with as was possible.

Section 34 of the Act requires that the name of an adopted child should be registered by the Collector as heir merely. If notice of the adoption is made at a time when the adoptee is by virtue of his adoption at once entitled to be registered as representative watandár, he should be so registered also; but otherwise his registration as representative watandár will take place under section 36, only on the death of the existing representative watandár. (G. R. No. 5846 of 19th July 1884, R. D.)

Collectors to be guided by Judicial Decisions.

The Collector is not bound by the Hereditary Offices Act to accept a judicial decision as conclusive, but when the question which the Collector has to decide has been fought out in the civil Courts and a judgment of the highest tribunal has been passed, the Revenue authorities properly consider that they should be guided by that judgment. (G. R. No. 2949 of 27th April 1886, J. D.)

The Collector, the sole Judge as to right to officiate.

From the date of the coming into force of Bombay Act III of 1874, the civil Court cannot entertain a suit for a declaration of right to officiate as the sole representative of a branch of a watandár family, or that a person is eligible to officiate, the Act constituting the Collector a Judge for this and other purposes of the Act. (I. L. R., 2 Bom., 370 and 479.)

But Civil Courts can declare who is a Watandár.

Under Bombay Act II of 1874 as under the law antecedent to it, the civil Court has jurisdiction to entertain a suit to be declared a watandar (I. L. R., 8 B., 26; *see* also B. H. C. P. J. for 1888, p. 224) or to be regarded as the adopted son of a deceased watandár, but not for a declaration of a share in the watan and of title to entry of name in the watan register. (I. L. R., 9 B., 25.)

Alienation of Hereditary Office—its Effects and Registry.

The hereditary office being a part of the watan (*vide* definition of 'watan' in section 4 of the Hereditary Offices Act), the terms of section 5 apply to alienations of it. To a watandár of the same watan such an office may be alienated in perpetuity, or for life or any other term, at the owner's pleasure. If a representative watandár alienates in a lawful manner his right of service, the alienee becomes thereby 'the representative watandár' in his stead. Recognitions of transfers of hereditary offices should, therefore, be regulated by these considerations.

There ought to be no objection to substituting the name of the lawful alienee of a representative watandár in the register, if there is no question and no doubt as to the alienation and as to its legality. When there is any question between the parties as to the fact of the alienation, or as to its validity as against any of them, they should be desired to produce a decree of a competent Court under section 36 of the Act before any mutation of names in the register is allowed. (G. R. No. 2776 of 7th April 1883, R. D.)

Section 59 does not apply to cases of removal for ordinary misconduct under Section 57.

Section 57 of the Hereditary Offices' Act empowers the Collector to inflict minor punishments on an officiator for ordinary misconduct or neglect of duty and section 58 enables him, with the sanction of Government, to remove an officiator from office in 'case of fraud * * * or other grave misconduct.'

Section 7 of Act XI of 1843, and section 58 of the Bombay Hereditary Offices' Act do not, therefore, apply to precisely similar cases; and it would be hard to visit upon a watandár, who had been removed from office under the former section for ordinary misconduct or incompetency, the consequences which section 59 of the Hereditary Offices Act reserves for those removed from office for grave misconduct. Moreover there is nothing in the Hereditary Offices' Act which indicates that the legislature intended that removals from office under Act XI of 1843 should be equivalent to removals under the more restrictive provisions of the former Act. (G. R. 6518, 1st September 1883, R. D.)

Appointments under XI of 1843 unaffected by Bom. III of 1874.

All appointments lawfully made under Act XI of 1843 remain unaffected by the Watan Act No. III of 1874. (G. R. 515 of 24th January 1876.)

Probationary not contemplated by the Act.

Probationary appointments are not in accordance with the Act. The whole tenor of the Act is in the direction of making final appointments for fixed terms so as to prevent frequent changes and the trouble and local excitement they involve. (G. R. No. 4433 of 3rd June 1885, R. D.)

Section 45 as amended by Section 9 of Bom. V of 1886, Educational Test.

Joint letter from the Commissioners of Divisions, No. S. R.—12, dated 14th February 1888:—

We have the honour to report that we have considered, in committee, the question of the educational test to be prescribed for pátil officiators under section 45 (*b*) of the Hereditary Offices' Act as amended by section 9 of Act V of 1886, as also under section 30 (*c*) of the Gujarát Matádárs' Act VI of 1887.

2. As Government are probably aware, although no test was prescribed by the Watan Act before its amendment, it was usual, *as far as practicable*, to insist on an officiator being able to read and write simple characters or at least to sign his own name. More than this could not be expected in most cases, and we are

of opinion that any test which may now be prescribed under the sections above quoted should also be of the simplest character. Ability to read the Village Police Act, to write a short report on an ordinary matter, and to read simple manuscript may, for the present, be considered sufficient qualification, and the Collector should have the power to dispense even with this simple test in cases in which he considers it advisable to do so.

3. We do not think that any regular examinations need, or ought to, be held. A pátil's qualifications can always be ascertained prior to his nomination.

4. We will add that those Collectors who have been consulted on the subject express entire concurrence in these views."

RESOLUTION.—The views expressed by the Commissioners of Divisions meet with the approval of His Excellency the Governor in Council, and the educational test proposed by them should be enforced except in cases where the Collectors consider it unadvisable to do so. (G. R. 2718, 2nd May 1888, R. D.)

Alienation before Bom. III of 1874—Effect of adverse possession and res judicata on succeeding holders.

A mortgage or sale by a watandár of watan property, executed where Regulation XVI of 1827 was in force, was in its inception void against the heir of the said watandár, and did not become validated when Bombay Act III of 1874 repealed that regulation.

Adverse possession begins to run against the heir from the date of the death of the watandár. (I. L. R. (V.) Bom., 435 and 437.)

In the absence of fraud and collusion:—

(*a*) Adverse possession for twelve years during the life-time of one holder of service watan lands is a bar to succeeding holders and

(*b*) Judgment against one holder of service watan lands is *res judicata* as regards a succeeding holder. (I. L. R., 9 Bom., 198.)

Section 9, cl. 2, imperative.

Clause 2 of section 9 of Bombay Act III of 1874 is mandatory and not discretionary, so that if the part of a watan to which that section is applicable is land, it is compulsory and not optional for the Collector to recover and demand the full rent instead of transferring the possession. When the legislature intended that the cause to be adopted should be in the Collector's discretion, this is expressed in unmistakeable terms (*vide* section 11 of the Act). Although such expressions, as "it shall be lawful," are at first sight only directory or permissive, it has been so often decided as to have become an axiom that such expressions have a compulsory force, unless there be special grounds for a different construction. (G. R. 9506 of 26th December 1883, R. D.)

Maxwell on the Interpretation of Statutes, p. 219.

Section 10.—Watan property not assigned is liable to process, but Collector may remove process by certificate.

It is only watan property which has been assigned as remuneration of an officiator which is not liable to process of a civil Court, section 13 of Bombay Act III of 1874. With respect to the rest of the watan property, there is no provision in the Act exempting it from such liability, although the Collector under section 10 may, if he thinks proper, remove any process pending, and set aside any sale. (I. L. R., 9 Bom., 104.)

Section 10.—Certificate—to what Court to be sent. Limit of power to issue.

The Collector's certificate issued under section 10 should be sent to the Court by whose decree or order the watan is affected. The words "without the sanction of Government" qualify the whole section, and the Collector cannot issue his certificate when an alienation has been sanctioned by Government.

The Act does not authorize the Collector to issue his certificate in order to prevent the rectification of a subordinate Court's decree by the High Court, or the reinstatement of a person in possession of which he has been deprived by the execution of the erroneous decree of a subordinate Court. (I. L. R., 5 Bom., 284.)

Section 12 (a).—Powers of Collector on Appeal.

The terms of section 12 (*a*) of the Act are sufficiently wide to authorize the Collector to evict a person whom, on appeal, he considers his assistant has wrongly placed in possession

of the land under section 9 and to make over the land to the person to whom he decides it should be given. (G. R. 25 dated 28th March 1883 R. D.)

Certificate should not issue to prevent alienation to Watandar of the same Watan of "unassigned" property.

Memo. of the Acting L.R.:—It appears that Gopal Hanmant in 1863 obtained a decree of the civil Court establishing his right as hereditary deputy to obtain payment of a certain sum annually out of the income of the deshpánde watan. In execution of this decree a warrant has been issued to the Mámlatdár of Sholápur directing that Rs. 658, otherwise payable to the deshpánde Kondo during the present month, be attached, and forwarded to the Court for payment to Gopal Hanmant, the decree-holder.

The question now is whether the Collector should issue a certificate under section 10 of the Bombay Watan Act to set aside the civil Court's process.

In my opinion no such certificate can legally be issued.

The first part of the section refers to cases where watan property, assigned under section 23 as remuneration of an officiator, has passed after the Act came into force or may pass without the sanction of Government into the ownership or possession of any person other than the officiator.

This portion of the section is clearly inapplicable. It is not contended that the cash allowance attached has been assigned as remuneration for the officiator; and as no deshpánde service is now required there can apparently be no official remuneration.

The second part of the section provides that when it appears that any part of a watan or any of the profits thereof not so assigned has or have passed or may pass by virtue of or in execution of a decree into the ownership or beneficial possession of any person not a watandár of the same watan, the Court shall, on receipt of a certificate of the Collector stating that the property to which the decree or order relates is a watan or part of a watan or that such property constitutes the profits or part of the profits of a watan * * * *, remove any attachment or other process.

Under the second part of this section the Collector can only issue his certificate to prevent the watan or any portion of it passing into the hands of a person who is not a watandár of the same watan.

The question then is whether the decree-holder, Gopal Hanmant, is a watandár of this watan.

That question must be answered in the affirmative. It is true he is not registered as a representative watandár, as when he applied in 1880 to be so registered, the Collector held that as the deshpánde service was not required, no one could be recognized as representative watandár. With this decision of course the Courts cannot interfere, as it is a matter entirely within the cognizance of the Collector. But none the less Gopal Hanmant appears to be a watandár of this watan, though not registered as a representative watanádr. The distinction is explained in Rámchant *vs.* A'nant (Indian Law Reports, VIII Bombay, page 25).

In the Watan Act, section 4, a watandár is defined as a person having an hereditary interest in a watan. It seems hardly possible to hold that Gopal Hanmant has not such an interest. The decree of 1863 is not before me, but it is fully explained in the judgment of Westropp, C. J., in Miscellaneous Appeal 7 of 1876. It was there held that "Gopal's status as hereditary deputy watandár having been ascertained and established in 1863 is a fact which neither a Revenue nor a civil Court could ignore or re-open. It is a *res judicata*." The decree declared that he had an interest in the watan and was entitled to receive therefrom a certain sum annually. He therefore fulfils the definition of watandár given in the Act, and I do not think that any certificate ought to be issued under section 10.

It is true that one was given in 1875 which the High Court was unable to set aside though their Lordships supposed it was passed in ignorance of the terms of the decree of 1863; and now no doubt if a certificate were issued, the Courts would be obliged to act upon it.

But although such a certificate, if granted, would be effective, it of course cannot be issued otherwise than as prescribed by the Act, and in 1875 it must have been given under some misunderstanding.

It may be argued that the non-service settlement abolished Gopal's office of hereditary deputy. No doubt the occasion for his services has ceased. But his interest in the original watan was a species of property of which he could not be deprived by any arrangement between Government and the deshpánde to which he was not a party. "Service lands (or allowances) are a property, not merely a remuneration" (*vide* the remarks of West, J., on page 215 of Indian Law Reports, Bombay, IX.): and this principle seems to apply no less to the emoluments of the hereditary deputy than those of the original deshpánde.

For the above reasons I consider that no certificate can be issued in this case under section 10 of the Watan Act, and that the order of the Court should be accepted (G. R No. 4188 of 7th July 1887, R. D.).

Certificate only operates on the one execution it is issued to stop.

The Collector's certificate under section 10 of Bombay Act III of 1874 is exhausted in operating on the execution which it is issued to stop. A fresh certificate would be necessary to operate in fresh proceedings in execution (I. L. R., 9 Bom., 328).

Section 17—its Object.

Section 17.—The object of this section is to fix definitely what the emoluments should be, and the wording of it is such as to leave the settlement entirely in the discretion of the Collector, subject only to the restriction mentioned in the proviso. In order to preserve the variability of this kind of watan property, the Collector's settlement is, under section 21, a periodical one. In each instance as it occurs the Collector must determine what is fair adequate remuneration, due regard being had to the nature and extent of the service performed (G. R. 476 of 23rd January 1882).

Section 17.—Jurisdictin of Civil Courts as to Kulkarni's perquisites from ryot does not affect Collector's powers.

Bombay Act III of 1874 does not deprive the civil Courts of jurisdiction to try the question whether a watandár kulkarni is entitled to receive perquisites from his ryot, but no decree will affect the Collector's powers under section 17 of that Act, when he chooses to exercise them (I. L. R., XII Bom., 278).

Section 17.—Payments recoverable from persons occupying Inám land.

19. A tenant of an inámdár is a person "occupying immovable property free from assessment" within the meaning of section 17, and it is immaterial whether the cultivators do or do not pay rent to the inámdár (G. R. 7884 of 26th December 1881).

Section 18 only applies where the services are connected with civil administration.

Memo. by the Acting L. R. :—Under section 18 of Bombay Act III of 1874, Bombay Hereditary Offices, the term 'watan' applies only to hereditary offices, watan property, and rights and privileges attached thereto.

The term 'Hereditary Office' is limited to offices held for the performance of *duties* connected with the civil administration, whether those duties are now demanded or not.

The term 'watan property' is limited to property provided for the remuneration of such duties only.

Section 18 therefore does not apply to any *services* unconnected with the civil administration, nor does it apply to any remuneration for such services, or to any rights and privileges attaching to such services or to such remuneration.

Whether the duties connected with civil administration are now required to be performed or not, the section would not apply to any other kind of services demanded either by the village community or by individuals, the remuneration for which must be a matter concerning only those who perform such services and those who demand them.

RESOLUTION.—Care must be taken that the customary services, due from Mahárs under section 69 of the Watan Act in connection with village sanitation, are not treated as private service to individuals (G. R. No. 4273 of 28th June 1888 R. D.).

Section 23.—Presumption as to whether property has been assigned.

Memo. by the Acting L. R :—Subject to the provisions of the Watan Act and local custom the right of succession to watan property is governed by the ordinary law of inheritance.

In the present case Lála Chándkháń held the field in dispute from 1858-59 to 1878-79. After his death his son Guljár took possession and held it till 1882. The Assistant Collector then ejected him in favour of Edu—who had been appointed officiating pátil—on the ground that it should be presumed that the land had been assigned as remuneration for the officiator. The Collector reversed this order and restored Guljár.

The Collector's order appears to be correct. The Assistant Collector's opinion that it should be presumed that the right to the possession of land had been assigned as official remuneration is I think erroneous. The presumption is the other way. The ordinary law of inheritance from the last possessor prevails until the circumstances which require some other order of descent are proved. There is really no proof that this land was assigned as official remuneration. Such assignment could only be the result of a specific order or of general custom. As it is not suggested that the Government Records show any trace of an official order about this land, it may safely be assumed that none has ever

been passed. And as regards custom there is no proof that by it the land has been reserved for the officiator. It is true that Lála and Guljár held from 1858 to 1882 and that at the same time they successively officiated as pátils; but these facts are quite insufficient to establish the custom. To do so it would be necessary to show that for a very long series of years the possession of this land always went with the office irrespective of the ordinary law of descent, and that the existence of the custom was generally admitted by the family.

I do not think the imposition of extra *judi* on the land to make up the scale remuneration to the officiator, and the grant to the latter of a stipend in cash from the treasury affect in any way the right to possession of the land. Though the extra *judi* is indirectly paid to the officiator, the very most that can be said is that its imposition may amount to an assignment of part of the profits as official remuneration; but it cannot in my opinion be held to be an assignment of the land itself.

Apparently the appeal to the Collector was time-barred but as his order seems right on the merits of the case, I think it should be confirmed. Under section 79 of the Watan Act Government has power to dispose of the matter as it thinks proper (G. R. No. 3774 of 22nd June 1887, R. D.).

Watan, continuable as long as male heir exists, how to be entered.

As district watan lands and cash allowances in the Deccan and Southern Marátha Country were continuable by the sanads hereditarily to the holders and their heirs, as long as any male heir to the watan—lineal, collateral or adopted —shall be in existence, the watan property secured by the sanad should be entered in the Government records in the name of the male heir from time to time entitled to succeed to it. At the same time it is stated in the sanad that Government will not raise any objection or question in consequence of the watan property being held by any other person with the consent of the owners under the sanad, and this concession appears to His Excellency the Governor in Council to make sufficient provision for any rights of other persons than the male heirs (G. R. No. 1071 of 4th February 1885, R. D.).

Widow under Gordon's Settlement.

A widow under Gordon's settlement or the terms of the sanad has no right to succeed to the property, watan or cash payment; she can in no circumstances claim the latter or sue the Collector, if he pays it to the lineal male heir who does claim it (G. R. No. 10407 of 24th December 1885, R. D.).

According to the ordinary rule of Hindu law, a widow would inherit in a divided family. But the question is whether the widow is excluded from inheritance by the terms of a particular grant.

2. Government have decided to adhere to the view adopted on the advice of the Acting Legal Remembrancer in 1885 that male heirs only can be recognized under the sanads. The construction of the sanads is however a proper matter for adjudication by the civil Courts.

3. If a widow desires to sue the recognized male heir in order to establish her title to any watan property to which she may consider herself entitled, the Collector should grant her the certificate which would probably be required under the Pensions Act to enable her to institute the necessary proceedings (G. R. No. 1653 of 2nd March 1886, R. D.).

Gordon Settlement—widows have no claim.

The terms of the sanads granted under what is known as the Gordon Settlement are to be strictly adhered to. Widows can have no claim. Sections 10 and 11 of Bombay Act III of 1874 are applicable to such watans except in the cases in which the terms of that settlement expressly render the watan alienable without the consent of Government (G. R. 3279 of 2nd June 1876; 6070 of 8th October 1877; and 2915 of 23rd May 1881).

Claim to share in commuted service watan cognizable by the Courts.

There is nothing in Bombay Act III of 1874 or in Act X of 1876 excluding the jurisdiction of the civil Court in a suit to establish a right to share in the emoluments of a watan which has ceased to be a service watan (I. L. R., 5 Bom., 578).

Partition of Watan.

There is no general presumption in favour of the impartibility of estates such as a *deshgat watan*. When the watan is property appertaining to an hereditary office, a decree for partition does not prejudice the watandár's right to any income payable out of it for the performance of his duties (I. L. R., 4 Bom., 494).

Settlement under Section 15 cannot operate retrospectively.

No conduct on the part of the Collector making a settlement under section 15 of Bombay Act III of 1874 can act retrospectively so as to give a previous mortgage of a chowdri sirdeshmukhi and kulkarni watan a greater degree of efficacy than it had under Regulation XVI of 1827, section 120, the law in existence when the mortgage was created (Printed Judgments of 1882, p. 68, S. C. I. L. R. 6 B. 211).

Sanction of Collector to suit for Partition unnecessary.

Sanction of the Collector to the bringing of a suit for partition of a watan is not necessary (Printed Judgments of 1880, p. 292).

Partibility of commuted service watan.

A cessation (even though sanctioned by Government) of the performance of service attached to an impartible watan does not make it partible (12 B. H. C. R., 224).

Collector has no power to review his own decision.

A Collector has no authority under the Bombay Hereditary Offices' Act to review a decision passed by himself (G. R. 5922, 19th August 1886, R. D.).

APPENDIX A.

Government Selections CXXXII, New Series, contains Colonel Etheridge's interesting narrative of the Bombay Inám Commission, dated 21st April 1873, which Government ordered to be published as a valuable work of reference, and gives a good deal of useful information on the subject of summary settlements.

See also Colonel Etheridge's Preface to his List of Saranjáms.

The following extracts are taken from the judgment of the High Court, dated 12th June 1882, in a suit for partition of saranjám property, and will be found useful for reference* :—

In *Krishnarav Ganesh* v. *Rungrav et al.* *(b)* Westropp, C. J., said, "Sanadi grants in inám, saranjám, jághir, vazifa, wakf, devasthán, and sevasthán, are, generally speaking, more properly described as alienations of the royal share in the produce of land, *i.e.*, of land revenue, than grants of land, although in popular parlance, and in this judgment, occasionally so-called." This observation has frequently been quoted with approval, and the principle involved in it was the foundation of the decision in *Vaman Janardhan Joshi* v. *The Collector of Thána* (*c*), which has been followed in many subsequent decisions. In *Ravji Narayan* v. *Dadaji Bapuji* (*d*) Westropp, C. J., repeated his former observation as being undoubtedly true, though he qualified it by adding that "if words are employed in a grant, which expressly, or by necessary implication, indicate that Government intends that so far as it may have any ownership in the soil that ownership may pass to the grantee, neither Government, nor any person subsequently to the date of the grant deriving under Government, can be permitted to say that the ownership did not so pass." He then added "In the *sanad* in evidence here, whosoever framed it, was apparently determined that no ambiguity should exist as to what the force of the term "village" might be; and in order to be explicit, he added to the grant of the village in *inám* the words "including the waters, the trees, the stones (including quarries), the mines, and the hidden treasures therein." Consequently, in that particular case the Chief Justice refused to hold the Pensions' Act applicable; remarking that "an enactment of a character so arbitrary as Act XXIII of 1871, which purports to deprive the subject of his right to resort to the ordinary Courts of justice for relief in certain cases, ought to be construed strictly, and the Court should not extend its operation further than the language of the Legislature requires." But the principle that grants in *inám* are ordinarily to be regarded as grants of land revenue, and nothing more, is in no way weakened by the decision in that case.

(*b*). 4 Bom. H. C., 1, A. C. J.

(*c*). 6 Bom. H.C., 191, A. C. J.

(*d*). Ind. Law Rep., 1 Bom., 523.

If this principle be true as regards grants in *inám* generally, it appears to us to be specially applicable to grants in *jághír* or *saranjám*.

Of these two terms Colonel Etheridge says in the Preface to the List of Saranjáms published by him as the same stood on the 1st August, 1874, "Under the Mahomedan dynasty such holdings were known as *Jághír*, under the Marátha rule as *Saranjám*. If any original distinctive feature marked the tenure of *Jaghir* and *Saranjám*, it ceased to exist during the Marátha Empire: for, at the period of the introduction of the British Government, there was no practical difference between a *Jághírdár* and a *Saranjámdár*, either in the Deccan or Southern Marátha Country. The terms *Jághir* and *Saranjám* are convertible terms in these districts. The latter is now almost universally adopted. These holdings, being of a political character, were not transferable nor necessarily hereditary, but, as a rule, were held at the pleasure of the Sovereign. On succession a nazrána was levied. When of a personal nature, they were termed *Jat Saranjám*, when for the maintenance of troops, *Fouj Saranjám*."

Colonel Etheridge's observation that jághírs were not necessarily hereditary hardly conveys a correct idea of the fact. It would have been more correct, if he had said that

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* Ramchundra Mantri *vs.* Venkatrao and B. Mantri, reported at I. L. R., 6 B., 598.

jághírs were not necessarily grants for life only, but might occasionally be hereditary. This is how the fact is stated by the Judicial Committee in *Gulabdas Jagjivandas* v. *The Collector of Surat* (*e*), where, their Lordships say that a *jághír* must be taken *primâ facie*, to be an estate only for life, although it may possibly be granted in such terms as to make it hereditary. Similarly, in the Fifth Report from the Select Committee on Indian Affairs (page 86) it was said: "With regard to the *jághírs* granted by Mahomedans, either as marks of favour or as rewards for public service, they generally, if not always, reverted to the State on the decease of the grantee, unless continued to his heir under a new *sanad*; for the alienation in perpetuity of the rights of Government in the soil was inconsistent with the established policy of the Mahomedans, from which they deviated only in the case of endowments to the religious establishments and offices of public duty, and in some rare instances of grants to holy men and celebrated scholars."

(*e*). Ind. Law Rep., 3 Bom., 186.

The circumstance that grants of this kind were ordinarily of so temporary a nature raises a presumption even stronger than that which exists in regard to ináms generally that the grants were ordinarily grants of the land revenue, and not of the soil. And the best authorities on the subject agree in so defining the nature of *jághírs* and *saranjáms*. Colonel Etheridge, in the Preface to which we have already referred, says: "It was the practice under former Governments, both Mahomedan and Marátha, to maintain a species of feudal aristocracy for State purposes by temporary assignments of revenue, either for the support of troops for personal service, the maintenance of official dignity, or other specific reason. Holders of such grants were entrusted at the same time with the powers requisite to enable them to collect and appropriate the revenue, and to administer the general government of the tract of land which produced it. Under the Mahomedan dynasty such holdings were known as *jághir*; under the Marátha rule as *saranjám*." Professor Wilson in his Glossary defines *saranjáms* as "temporary assignments of revenue from villages or lands for the support of troops, or for personal service, usually for the life of the grantee; also grants made to persons appointed to civil offices of the State to enable them to maintain their dignity. They were neither transferable nor hereditary, and were held at the pleasure of the Sovereign." The term *jághir* he defines as "a tenure common under the Mahomedan Government, in which the public revenues of a given tract of land were made over to a servant of the State, together with the powers requisite to enable him to collect and appropriate such revenue, and administer the general government of the district." Mr. Steele (Hindu Castes, page 207) says: "Grants by the Native Government in Jághír were either Fouj Saranjám, subject to the performance of military service, or Jat Saranjám, personal Jághír. The subject of these grants were the whole or particular portions of the revenues of villages belonging to the Sirkár * * * * *. Usually the grants depended on the pleasure of the Sovereign, and the fidelity of the grantee * * * * * * * *. They were not in general hereditary; sanads seldom exist; on the first grant it was usual to give the grantee a *Khat* or order addressed to the Government officers of the district." Mr. Neil Baillie, in his Essay on the Land Tax of India, says (page XLIV) "The Jághir is, properly speaking, an order upon the *Kiraj* of particular lands, which are said to be granted by way of Jághír. Two examples of it are given in the Appendix; and the terms in which they are expressed are worthy of attention. In both a sum of money, so many *lákhs* of *dams*, is said to be bestowed out of a particular pargana, the officers and inhabitants of which are directed to account for their just rents and dues of the Diváni (that is of the Civil Government) to the agent of the Jághírdár, up to the sum specified, from which they are forbidden to withhold or deduct a single *dam*." He then goes on to say: "Though the Jághír was, in form, an order for the payment of the *Khiraj*, there is no doubt that the Jághírdár was treated, in some respects, as the Zamíndár, or holder of the land. Thus No. IV. of the Appendix is a Perwanneh, addressed to the agent of a Jághírdár, in which he is required to do justice to a complainant; and though the purpose of the Jághír was to make a provision by an order on the revenue, yet this was said to be by way of Jághír, as if some holding or taking of the land itself was necessary to give due effect to this object. The Jághir is thus sometimes treated as an estate in land, not only in the Regulations, of the Indian Government but also in the decisions of the Courts of justice, and in this sense it is considered to be, essentially, an estate for life. There is reason however to think this view of the Jághír to be erroneous. As an order for payment of the *Khiraj* to a particular person, it necessarily fell to the ground on his death, unless some other persons, by name or description, were included in the grant. Such other persons might be his children: and if a *Jághir* were granted to a man and his children, there seems to be no just reason why it should not pass to them at his death; much less is there any just cause for suspecting the genuineness of a document constituting a *jághir*, because it contains such words as seems to have been done in the case above alluded to." We understand Mr. Neil Baillie as expressing in this passage a clear opinion that, although the etymology of the word *jághir* has sometimes given rise to the idea that the term involves a taking of land, or an estate in land, and although a *Jághírdár* has been treated as having some of the powers of a land-holder, yet, in fact, the grant is nothing more than an assignment of land revenue. And the case of *The East India Company* v. *Syed Ali* (*f*) shows that it was upon this ground that the Madras Government justified the resumption of jághírs, when it assumed the Government of the Carnatic in 1801. At page 575 of the Report

(*f*). 7 Moore's Ind. Apps., 555.

is the plea of the East India Company that "even when the language of the grants might seem to convey a proprietary interest in the soil, the grantees confessedly possessed no such interest, the subject-matter of the grant being a mere Jághír, or portion of public land revenue, together with the Government powers of collecting the same."

The authorities which we have quoted, (and none have been shown to us which support a different conclusion), may, we think, be taken as at least establishing that a grant in *jághir* or *saranjám* is very rarely a grant of the soil, and that the burden of proving that it is in any particular case a grant of the soil lies very heavily upon the party alleging it. If it had not been that in the present case, in which there is no *sanad*, a Division Bench remanded the case for the taking of evidence, we should have been disposed to say that such a contention could not be made out by any evidence except such a *sanad* as was produced in *Ravji Narayen* v. *Dadaji Bapuji* already referred to.

The history of the manner in which Deccan *saranjáms* were dealt with by the Government of India and the East India Company, when it succeeded to the Government of the Peshwa, is succinctly stated in Colonel Etheridge's Preface. The correspondence cited by him shows clearly enough that, when on the advice of Mr. Mountstuart Elphinstone, then Commissioner at Poona, it was determined that all *saranjáms* granted prior to A.D. 1751 should be considered hereditary; this concession was made, not as of right, but as an act of grace and State policy, and the Government reserved to itself the power of determining, whenever occasions might arise, the nature and extent of its own bounty. This reservation of the power of Government has been recognised in all the legislations on the subject since Mr. Mountstuart Elphinstone, as Governor of Bombay, framed his Code of Regulations. Section 38 of Regulation XVII of 1827, provides that "land held exempt as *Jághír* shall be liable to resumption and assessment under the general rules at the pleasure of Government." This is explained in Clause 3, Section I, Regulation VI of 1833, which says "*Jághír* or other lands held on service tenure are declared to be resumable at the pleasure of Government, under the forms laid down in Clause First, Section 38, Regulation XVII, A.D. 1827, it being understood that the expression used in the said clause, *viz.*, "under the general rules" meant "such rules as Government may think proper to issue from time to time." Act XI of 1852, after providing for rules for adjudicating upon titles to exemption from payment of land revenue, says (section 10): "These rules shall not be necessarily applicable to Jághírs, *saranjáms* or other tenures for service to Government, or tenures of a political nature, the title and continuance of which shall be determined, as heretofore, under such rules as Government may find it necessary to issue from time to time." So, in Bombay Act II of 1863, which was an Act to facilitate the adjustment of unsettled claims to exemption from the payment of Government land revenue in those parts of the Bombay Presidency, which are subject to the operation of Act XI of 1852, Section 1, Clause 2, says: "The excepted cases, to which the authority of adjustment and guarantee vested in the Governor-in-Council by this provision shall not extend, are the cases of lands held as follows:—

1*st*. * * * * *

2*nd*. Lands granted or held as Jághírs or Saranjáms, or on similar political tenure.

And then, lest any question should be raised, (as was attempted to be raised in the argument in this case), whether the mere order of Government that land should be entered in the accounts under the heading "Political" is conclusive as to the political character of the grant, section 16 of the Act goes on to say: "'Political tenure' is defined to be tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government." So, in Bombay Act VII of 1863, which is a similar Act relating to districts not subject to the operation of Act XI of 1852, Section 2, Clause 2, provides that "lands granted or held as Saranjám, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms as Government, on political considerations, may from time to time see fit to determine;" and section 32 contains a definition of the term "political tenure," similar to that which we have quoted from Bombay Act II of 1863. The Regulations and Acts which we have cited show beyond all question that it is for the Government to determine how *saranjáms* are to be held and inherited, and that, if the Civil Courts had jurisdiction over claims relating to Saranjáms, they would be bound to determine such claims according to the rules laid down by the Government. It would, therefore, be useless to refer, as in this case we have been referred, to evidence tending to show that under the Native Government, the ancestors of the parties dealt with their Saranjám villages as if they were proprietors of the soil, and partitioned the villages among their families. The questions which the Courts would have to consider would simply be, what are the terms of the grant by which the British Government continued the Saranjám? and what is the rule of succession laid down by the British Government for *saranjáms* in general, or for this *saranjám* in particular?

It would appear that, under "the Saranjám Rules" an hereditary Saranjám is considered by the Revenue authorities to descend entire to the eldest representative of the last holder and that, if the eldest son predeceases his father, his son takes precedence of the next surviving son of the last holder.

We have been informed that the only rules are those contained in the Preface to Colonel Etheridge's List of Saranjáms, to which we have so repeatedly referred. As the Regulations and Acts which we have quoted contemplate that *jághírs* and *saranjáms* should be continuable

under general rules to be issued from time to time by Government, it seems strange that no rules should be forthcoming, bearing the authorisation of the signature of a Secretary to Government. We, must, however, take it that Colonel Etheridge speaks, under the authority of Government, when he says in the Preface to which we have been referred, that succession to Saranjáms is restricted to lineal male heirs in the order of primogeniture; and that the eldest son is the heir in the first instance. Colonel Etheridge says that in Saranjáms of the second class, if the eldest son of the first British grantee die before his father, but leave a son, that son, on his grandfather's death, is to be considered the second generation, and the whole Saranjám will be continued to him. But curiously enough, Colonel Etheridge does not say whether the same rule of succession would be applicable to hereditary Saranjáms; and on this point, therefore, we are left without any distinct rule. The rule to which the Revenue Commissioner referred in 1865 as giving to the son of a predeceased eldest son a preference over his uncle is not forthcoming in the Secretariat; nor does Mr. Nairne in his Handbook mention any such rule, except that which we have already quoted from Colonel Etheridge's Preface, as applicable to Saranjáms of the second class. In the absence of a rule made by Government, the Courts would, if they had jurisdiction in the matter, be obliged to decide according to the ordinary rule of Hindu law applicable to impartible property; and although, as stated by Mr. Mayne in his work on Hindu Law (section 461), there is rather a want of authority as to the rule to be adopted where an eldest son, who has never taken the estate, has died leaving younger brothers, and also a son, yet the Courts would probably hold that the grandson took in preference to his deceased father's eldest surviving brother.

As regards the question of the impartibility of a *saranjám*, the rule stated by Colonel Etheridge is in accordance with the orders conveyed in a despatch from the Court of Directors, No. 27, dated 12th December 1855. In para. 20 of that despatch they say: "We agree with you that Saranjáms should not be sub-divided, but that the holders should be required to make a suitable provision for their younger brothers." A *jághír*, to which service is attached, is certainly not divisible, but descends to the eldest son —*Hurlall Singh* v. *Jorasvun Singh*,* cited with approbation by Lord Kingsdown in 6 Moore's Indian Appeals, 125, and *Rajha Nilmoney Singh* v. *Bakranath Singh*, decided by the Privy Council, 10th March 1882. There is some evidence in the present case that the *Saranjám* was originally given for the maintenance of a body of horse, and was, therefore, in its inception a *jághir* held for service. But independently of this and of any Government rule, the same principle would probably be applied to all *saranjáms* on the ground stated by Mr. Mayne (Hindu Law, Section 393), that an estate, which has been allotted by Government to a man of rank for the maintenance of his rank, is indivisible as otherwise the purpose of the grant would be frustrated.

* 6 Calc. S. D. 169, 204.

APPENDIX B.

No. 6018.

Extract from the proceedings of the Government of Bombay in the Revenue Department, dated the 25th October 1875.

READ the undermentioned papers:—

Letter from J. E. Oliphant, Esq., Acting Revenue Commissioner, S. D., to the Chief Secretary to Government, No. 5, dated 4th January 1875.

In continuation of my Memorandum No. 4307, dated the 24th November last, I have the honour to request you will favour me with the instructions of Government as to the course to be followed in cases in which the watan lands belonging to district hereditary officers and subjected to the summary settlement are purchased by parties (not members of the watandár's family) at auction sales under decrees of the civil courts. Such purchasers frequently make applications to have the lands entered in their names in the Government accounts, and the question for consideration is, whether or not their applications should be complied with.

2. As the right of Government to exact service from the lands in question has been commuted under the settlement effected by the late Mr. Gordon, I see no objection to enter the lands in the purchaser's names on their agreeing to pay in future the additional nazrána of one anna for each rupee of the assessment, as prescribed for adoptions out of the family of watandárs.

Memorandum from Colonel A. T. Etheridge, C. S. I., Alienation Settlement Officer, S. D., No. 28, dated 15th January 1875.

Referring to Government endorsement No. 163 of 12th instant, Colonel Etheridge has the honour to observe that he is very doubtful whether a purchaser's name should be entered in the Government accounts, as suggested by the Revenue Commissioner, in the case of a district watan disposed of at an auction. It seems to the Alienation Officer that the terms of the sanads issued under Mr. Gordon's watandári settlement will scarcely admit of this course. As there is a doubt, the question might perhaps be referred to the Legal Remembrancer.

Report by J. R. Naylor, Esq., C. S., on special duty, No. 176, dated 8th May 1875.

Clause 2, Section 15, Bombay Act III of 1874 (the Hereditary Officers' Act), enacts that any settlement for commutation of service made with the holder of any watan before that Act came into force, shall have the same force as if made under that Act. And clause 1 of the same section enacts that such settlement may be made "upon such condition whether consistent with the provisions of this Act or not, as may be agreed upon." The effect of this appears to be to legalise any terms that may be, or may heretofore have been, mutually agreed upon between Government and the holder of a watan, even though such terms may not be consistent with the provisions of the Act. But watan property does not cease to be watan property, because the duties, for the performance of which it was originally acquired have been commuted for a money payment, and unless there be something in the terms of the commutation settlement inconsistent therewith, the law ordinarily applicable to such property still applies to it, I think, notwithstanding that Government have dispensed with the necessity for service.

2. Under this view, I am of opinion that section 5 of Bombay Act III of 1874, which enacts that "no watandár shall, without the sanction of Government, sell, mortgage, or otherwise alienate or assign any watan or part thereof, or interest therein, to any person not a watandár of the same watan," is applicable to the watans of district hereditary officers whose liability to service has been commuted for a money payment, because, as far as I am aware, there is nothing in the settlements entered into with them to the contrary. I say as far as I am aware, because I find from Colonel Etheridge's narrative* of the Inám Commission (latter part of para. 69) that the sanads which have been issued "are not only not the same throughout the Presidency, but are not the same in all respects in the same division."

3. The only form of sanad which has come to my notice is that sanctioned originally by Government Resolution No. 2871, dated 25th August 1863, in the Revenue Department, for Poona and Sátára. The former portion of it has been since somewhat changed on the recommendation of the Legal Remembrancer, but the essential portion would appear from the standard form (Sanad 14), recently printed at the Central Press, after being sent to me for revision (*vide* Government Memorandum No. 4958, dated 16th September 1874), to have remained intact. It is as follows :—

"It is hereby declared that the said lands and cash allowances shall be continued hereditarily by the British Government, on the following conditions: that is to say, that the said holders and their heirs shall continue faithful subjects of the British Government, and shall render to the same the following fixed yearly dues :—

	Rs.
Mámul Judi	
In lieu of service	
Total ...	

"In consideration of the fulfilment of which conditions—

"1*st*.—The said lands and cash allowances shall be continued without demand of service, and without increase of land tax over the above fixed amounts, and without objection or question on the part of Government as to the rights of any holders thereof, so long as any male heir to the watan, lineal, collateral, or adopted, within the limits of the watandár family, shall be in existence.

"2*nd*.—No nazrána or other demand on the part of Government will be imposed on account of the succession of heirs, lineal, collateral, or adopted within the limits of the watandár family, and permission to make such adoptions need not hereafter be obtained from Government.

"3*rd*.—When† all the sharers of the watan agree to request it, then the general privilege of adopting at any time any person (without restriction as to family) who can be legally adopted, will be granted by Government to the watan, on the payment from that time forward in perpetuity of an annual nazrána of one anna in each rupee of the above total emoluments of the watan."

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* Bombay Government Selections, No. CXXXII., New Series, p. 50.

† In condition 3 of the conditions embodied in the form of sanad issued to District Hereditary Officers, &c., the words 'all the sharers of the watan' should be interpreted literally. There is nothing in the sanad to indicate that only the sharers whose names are entered in the Collector's records are meant." (G. R., R. D., No. 5854, dated 16th August 1886).

Adoption by widow Memo. by L. R.:—A cash allowance stood in the name of Daryábái, widow of Jayavantráo Shitole Deshmukh. But in January 1882 the Commissioner directed that the name of Bábáji Khanderáo should be substituted for that of the widow, he being a collateral who, in the state of the family as it then existed, would succeed as nearest heir on the death of the widow.

Since then, however, the widow has made a lawful adoption from within the watan family. It is evident from the form of sanad issued to district hereditary officers in the Poona District, in confirmation of the service commutation settlement made with them by Mr. Gordon that Govern-

The above conditions, so far from being inconsistent with the provisions of the Hereditary Officers' Act, are, it seems, in strict accordance with section 5 of it, which prohibits a transfer of the watan property to any person not being a watandár of the same watan. And if the same conditions are contained in all the sanads alluded to by Colonel Etheridge, the variances being in other details only, I am of opinion that no portion of watan to which any such sanad applies can be alienated to any person other than a watandár of the same watan without the sanction of Government, and that the Collectors may lawfully, in case of any such alienation in the future, have recourse to the powers given to them by sections X. and XI. of the Act, and in the case of alienations effected before the Act was passed otherwise than by the intervention of the courts, to the powers given them by section IX. of the Act.

4. It cannot, I think, be said that the property of any watan to which a sanad containing the above conditions has been given, has been thereby converted into *private property* in the usual wide sense of that term, and if I am correct in supposing that similar conditions have been inserted in all such sanads, I would respectfully suggest that the latter part of the 1st para. of Government Resolution No. 4248, dated 24th July 1873, might perhaps be modified with a view of removing possible misunderstanding. The closing part of the Collector of Dhárwár's Memorandum of the 10th October 1872,* to which the Hon'ble Colonel Anderson took exception in para. 5† of his No. 970, dated 1st July 1873 (*vide* Compilation No. 1063 of 1873), appears also to have been correct, whilst the latter's views are certainly not in accordance with those expressed in para. 4 of Government Resolution No. 3167, dated 19th September 1863.‡

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ment have recognized the right of succession in virtue of such adoptions and therefore that the widow's adoptive son has a preferential claim to the allowance over collaterals. Had the adoption taken place previous to Jayavantráo's death, the allowance would have been entered in the adoptive son's name in lieu of his without the least hesitation. A boy adopted by a widow has, according to Hindu law, precisely the same status as if he had been adopted during the widow's husband's life-time. I am of opinion therefore that the adoptive boy's right should be recognized by the Collector and that his name should now be entered in the records in lieu of Bábáji Khanderáo's. (G. R. No. 10054, dated 22nd December 1884, R. D.)

*"The above rules (proposed for the collection of judi on inám holdings) will apply to all kinds of ináms in this district with such few modifications as would be necessary according to the different conditions under which the ináms may have been continued; for instance, in the case of the district hereditary officers' lands, the same rules would apply, with this exception, that the transfer contemplated in the rules should not be permitted when the transferee is some person out of the watandár's family; this is necessary, as these watans have not been made transferable private property." (Mr. E. P. Robertson, Collector of Dhárwár's Memo. dated 10th October 1872.)

†"The rules proposed by the Collector of Dhárwár would act beneficially beyond all doubt, and with a definition of the share of each sub-inámdár, would give a much more secure and comfortable tenure to all inámdárs, freeing them from all chance of molestation from the misdeeds or machinations of their co-sharers; but Colonel Anderson cannot agree with the closing part of the Collector's memo. of the 10th October 1872, in making district hereditary officers' lands only an exception. It would appear very inexpedient to allow the permanent transfer to any person, not of the office family, of any lands now held on service tenure. When all liability for service has been commuted no such objection exists. It would be far preferable, considering their present status, to allow district hereditary officers to do what they please with their lands than to grant the same liberty to the patels and kulkarnis, which, however, does not appear to be objected to by the Collector of Dhárwár. To facilitate the scattering of patels and kulkarnis' land would be a political as well as an administrative error, while it appears by no means certain that the same measure would not be a political advantage in the case of the district hereditary officers whose service is no longer required, and whose ancient family influence, which is still very great and little to the advantage of Goverment, would be decreased by the dispersion of their lands." (Colonel Anderson's Memo. No. 970, dated 1st July 1873.)

‡ "With reference to paragraphs 26 to 29 (of the Watan Commissioner's report), the Governor in Council agrees with Mr. Hart (*vide* extract (*a*) para. 4 of his report given below) in accordance with whose views the point therein referred should be disposed of. With a view to give practical proof of the desire of Government to increase rather than to diminish the share which those officers have hitherto had in the efficient administration of the country, Government will be glad to receive from the Commission list of any of these Hereditary officers whom they, after consultation with the Collectors, would recommend to be gazetted as Honorary Magistrates, together with a draft of any rules they may think it desirable to lay down for regulating the proceedings of such officers in the execution of their functions. Great care should be taken in the selection of officers with regard, not only to their personal character and social position, but their capacity to appreciate the honour done to them and their class by their selection." (Government Resolution No. 3167, dated 19th September 1863, para. 4.)

(*a*) Extract para. 4 of Mr. Hart's Report above referred to :—"There is only one other point on which the Revenue Commissioner considers any remark beyond the notice of his general concurrence necessary, and this is not a point of any importance as regards the financial part of the settlement. In paragraph 28 of the Special Commissioners' letter, they mention the desire of the zamindárs, that in order to keep up the recognition of the consideration in which they have been hitherto held by the community, 'they should be considered to have a right to sit in the kacheri.' This ought not to be assented to in such terms as to recognise their rights to frequent the Mám-

5. I should add that a similar question to that on which I am now reporting has been raised in the suit marginally noted, the defence of which was sanctioned in Government Resolution No. 5510, dated 17th October 1874, and in adverting to para. 9 of my Report No. 158, dated 13th October 1874, upon this suit, I must explain that sections V and IX of Bombay Act III of 1874 have placed the law as to the inalienability of watan property in a much clearer light than the vague provision of clause I., section 20 of Regulation XVI of 1827 did.†

IN THE DISTRICT COURT OF POONA.
Original No. 2 of 1874.
*Náro Dámodar Ghugri.
vs.
The Collector of Poona.

Memorandum from Aderji Jamsetji, Esq., Acting Alienation Settlement Officer, N. D., No. 306, dated 14th June 1875.

The queries put in Government Memorandum No. 2824, dated 17th May 1875, to the Revenue Commissioner, N. D., are :—

(1.) Whether the same conditions have been entered in the sanads issued to the watandárs in the districts of the Northern Division as those stated by Mr. Naylor?

(2.) Whether the entry of the names of purchasers of watans is not permitted in the Northern Division?

2. As regards the first query, the undersigned begs to append a memorandum showing the conditions of the sanads issued to the watandárs in the different Collectorates of Gujarát.

3. In the remaining Collectorates of Khándesh, Násik, Thána and Kolába, the conditions of the sanads issued to the watandárs of those districts are the same as those stated by Mr. Naylor.

4. With respect to the second query, the undersigned begs to state that the entry of the names of purchasers of watans in the districts of Surat, Broach and Kaira has been permitted. A specimen of such entry is given below :—

"Haridás Navalrám, purchaser of Dhanshankar Lakhmishankar's hak."

5. Applications for the entry of the name of a purchaser or mortgagee of the watan mentioned in para. 3 of this memorandum have been rejected by this department.

6. The conditions of the sanads issued to the watandárs of the Ahmedabad District admit of a purchaser's name being entered, provided the watandárs have agreed to the payment of an annual názrána of one anna in each rupee of the total emoluments of the watan.

Conditions of the Sanad granted to the District Hereditary Officers of Surat and Broach as per Government sanction No. 3929, *dated* 14*th November* 1867.

"The watan, of which the share specified in the schedule below given is a part, as now confirmed, shall be continued (subject to the condition of loyalty to the British Government on the part of the holders thereof) by the British Government without demand of service, and without any further deduction therefrom on that account, or any objection or question on the part of Government as to title, to whomsoever shall from time to time be the lawful holders thereof, but without affecting the rights and interests of other parties."

Conditions of the Sanad granted to the District Hereditary Officers of Ahmedabad as per Government sanction No. 234, *dated* 17*th January* 1867.

"1*st*.—The watan, as now confirmed, and below specified, shall be continued (subject to the condition of loyalty to the British Government on the part of the holders thereof) hereditarily without demand of service, and without any further deduction therefrom on account of service, and without objection or question on the part of Government as to the rights of any holders thereof, so long as there shall remain in existence any legal heir to the watan, whether lineal, collateral, or adopted, within the limits of the watandár's family, and whether descended in the male or female line.

"2*nd*.—When all the recorded sharers in the watan agree to request it, the general privilege of adopting at any time any person out of the watandár's family, who can be legally adopted, and of transferring the watan or any recognized share thereof, by sale, mortgage, &c., as private property, will be granted by Government to the watan on the payment from that time forward, in perpetuity of an annual nazrána of one anna in each rupee of the total emoluments of the watan as now confirmed, and from the date of the imposition of this

latdárs' kacheris, or interfere in the kacheri work, at their own pleasure, which might cause great inconvenience and abuses of various kinds, but that when they do attend, in pursuance of invitations such as are contemplated at the close of the Special Commissioners' 28th paragraph, or in pursuance of any legitimate business, they shall be treated with no less consideration in such matters, as being allowed to be seated, &c., than they have hitherto been. The Revenue Commissioner believes that this is what is intended by the Special Committee, but has considered it right to notice the matter, trivial as it may appear, more particularly than they have done." (Mr. Hart's Memo. No. 2302, dated 24th July 1863.)

*This suit was held barred by the Pensions Act XXIII of 1871—*Vide* I. L. R. 6 B. 209.
† *Vide* now section 5 (2) as amended by Bo. V of 1886.

nazrána the whole watan, or the recognized shares thereof, will be converted into private property, heritable and transferable in all legal modes."

Conditions of the Sanad granted to the District Hereditary Officers of Kaira as per Government sanction No. 2376, dated 16th May 1872.

"This sanad is accordingly issued; and it is hereby declared that the emoluments of the said watan specified below shall, as now confirmed, be continued, (subject to the condition of loyalty to the British Government on the part of the holders thereof) by the British Government in perpetuity, without demand of service or any further deduction therefrom on that account, and without any objection or question on the part of Government as to title, whether it shall have accrued in virtue of inheritance, adoption, transfer, or otherwise to whomsoever shall from time to time be the lawful holders thereof, but without affecting the rights and interests of other parties."

RESOLUTION.—The question raised by Mr. Oliphant is a very important one, and requires definite orders. But owing to the variety of agreements which have been made with watandárs and to other causes, no distinct ruling of general application has yet been laid down.

2. Government are inclined to think that the rule laid down for Surat and Broach in Government Resolution No. 4425 of 16th December 1867 (a copy of which will be found in the précis attached), is the one which should be adopted everywhere, viz., that Government will not question alienations by district hereditary officers who have accepted the settlement, but that this course does not prevent parties interested from suing to set aside alienations as illegal. In that case it would be as well to forego the right to claim a nazrána of one anna on alienations or adoptions in which this has been stipulated for in the sanads. The amount of nazrána to be lost will be very small. If this course were adopted, the rule would be that the Collector should enter the names of aliences, if not objected to by the watandárs, on which point inquiries should be made. If the watandárs object, the Collector would refuse to make the entry, and leave the parties to obtain decision from the Civil Court.

3. Government will, however, feel obliged by the Revenue Commissioners considering the important question at issue thoroughly, and favouring them with their opinion upon it. Government would wish to be informed, at the same time, how far the condition has already been enforced of payment of nazrána where such a provision has been inserted in the sanads, and whether any complications would follow the abandonment of it.

4. Mr. Naylor should be asked his opinion whether, if the question were decided in the manner indicated, it would be necessary to issue new sanads, or whether the decision would be a mere concession which the watandárs cannot object to; in other words, would an order merely directing the Collectors not to enforce certain stipulations in the sanads be objectionable?

5. Mr. Naylor should forward duplicate copies of his report to the Revenue Commissioners as well as to Government, in order that the Revenue Commissioners may have the benefit of his opinion when submitting their reports.

No. 3279.

REVENUE DEPARTMENT.

Bombay Castle, 2nd June 1876.

Letter from Mr. J. R. Naylor, C. S., on Special Duty, No. 21, dated 7th January 1876. Letter from the Revenue Commissioner, S. D., No. 1333, dated 20th April 1876. Letter from the Revenue Commissioner, N. D., No. 3133, dated 20th May 1876.	Replying to Government Resolution No. 6018, dated 25th October 1875—Calling for opinion on the question as to the advisability of permitting alienations or adoptions out of the families by district hereditary officers who have accepted the watan settlement, without payment of nazrána.

RESOLUTION.—His Excellency in Council does not think it would be expedient to forego the nazrána of one anna, and it seems to him that the method least likely to cause difficulty would be to adhere strictly to the terms of the sanads in each case.

APPENDIX

Extract from reports of the Acting Legal Remembrancer, quoted in Government Resolution No. 2318, Revenue Department, dated 8th April 1882.

"Government have decided on several occasions that a daughter married out of a watan family is not by reason of such marriage divested of her rights and does not lose her status as watandár.

"2. In the present instance it appears that the petitioner has already been recognized as representative watandár, and that under section 51 of the Bombay Hereditary Offices Act, 1874, she appointed her husband to be her deputy. As section 53 of that Act provides that none but a watandár shall be appointed as deputy, the question is whether the petitioner's husband can be deemed to be a watandár, that is, 'a person having an hereditary interest in a watan' within the meaning of that section.

"3. The answer to this question must depend upon the decision of the other important question whether the watan property which a daughter inherits from her father is stridhan, and, therefore, transmissible to her heirs, or whether it is a limited and restricted estate only, that is to say, which she is entitled to enjoy for her life-time, and on her death devolves on the line of the last male owner, her father.

"4. If the watan is regarded as stridhan, it seems clear from the best authorities that on the death of the daughter her children are entitled to inherit it, and if she has no children, her husband will be her heir and on failure of him his nearest sapindás, which term includes, on the father's side, all blood relations within six degrees together with the wives of the males, and on the mother's side, those within four degrees. Consequently no objection could be taken to the appointment of the watandár's husband or one of his relations within those degrees as her deputy.

"5. There is, however, a very great difference of opinion on the subject. The Bombay High Court have ruled that according to Hindu law on this side of India property inherited by a married woman from her father descends on her death to her own and not to her father's heirs (*see* I. Bombay High Court Reports, 209). Subsequently the same Court held that the property acquired by a married woman by inheritance, with the exception of property inherited by a widow from her husband, classes as stridhan and descends accordingly (*see* 6 Bombay High Court Reports, 1). Lastly it was decided in an elaborate judgment by Mr. Justice West (8 Bombay High Court Reports, 244) that the Mitákshara (which is the highest authority in this Presidency) recognizes only one class of stridhan and includes in that class *all* property acquired by a woman by inheritance, and if she has been married according to one of the approved forms, on her death childless, descends to her husband and his sapindás; but over stridhan acquired by inheritance her power of alienation is limited. So, too, in the latest case reported in Indian Law Reports (III. Bombay, 171) the Chief Justice (Westropp) held that the daughter had succeeded not to a qualified estate but to an absolute and several estate in her father's immoveable property.

"6. On the other hand the rulings of the High Courts of Calcutta and Madras are quite opposed to the Bombay rulings, and have been entirely approved of by the Privy Council in Chotay Lall *v.* Chimno Lall (6 Law Reports Indian Appeals, 15). In Commenting on Mr. Justice West's judgment the Chief Justice of the Calcutta High Court in this case pointed out that there was no substantial difference of opinion on the law between the Calcutta and Madras High Courts, and that they ought not to unsettle the law which had been received for the last fifty years on account of the opinion of a judge of the High Court at Bombay, however learned he may be. The Privy Council observed that the question of the daughter's estate cannot be considered as 'res integra'; that the result appears to be that the Courts in Bengal and Madras have determined in a series of decisions that the daughter takes a qualified estate only, whereas in the Courts of Bombay there have been rulings and *dicta* in favour of the view that she takes the entire property. But 'their Lordships do not think it necessary, especially after their own decisions as to widows' estates, to go into an examination of the Indian cases. They agree in the conclusion of the Calcutta High Court affirming the law as stated by Sir William Macnaughten, that immoveable property acquired by a daughter by inheritance, on her death in default of issue male, goes not as stridhan to her husband or other heir but reverts to her father's heirs.

"7. It must be observed that this difference of opinion rests on a different interpretation of old and obscure texts. The original text of the Mitákshara, it is stated in the above judgment of the Privy Council, does not afford any foundation for the argument in favour of the right of the daughter to the entire interest in land acquired by inheritance, though the interpretation of the commentator, Vijnáneshvar, on which Mr. Justice West's reasoning rests, does. It seems, therefore, that there is a preponderance of decisions against the Bombay rulings. What would be the result of an appeal to the Privy Council from this Presidency it is not easy to say. Mr. Justice West observes that it is reasonable to suppose that in such case his arguments would have much weight with their Lordships. In the Calcutta appeal, however, the Privy Council had an opportunity of weighing the Bombay rulings as they are carefully reviewed in the judgment of the Chief Justice Couch which was on appeal before their Lordships. The conclusion come to by their Lordships is that it was unsafe to open the question and unsettle a rule of inheritance affirmed by a long course of decisions.

"8. The question of course now is whether Government should follow the law as stated by the Bombay High Court or as it is stated by the High Courts of Bengal and Madras, and recognize the female watandár's husband or his relative as having an hereditary interest in the watan.

"9. In deciding this question it must be remembered that the Bombay rulings extend over a period of some twenty years and were laid down by Judges whose reputation for learning is beyond all question—Sir Mathew Sausse, Sir Joseph Arnould, and Mr. R. West, and have been followed and accepted as the law by the people of this Presidency. The Bengal and Madras rulings, though entitled to every respect, are not binding here, while the judgment of the Privy Council cannot be said to decide the question in its direct applicability to the people of this side of India.

"10. On the next occasion of the question arising as it almost certainly will, the Bombay High Court Judges will have to decide it in the light of the Privy Council's decision and it remains to be seen whether the High Court will adhere to its former view of the law as applicable to this Presidency or will alter it in accordance with the views of the Bengal and Madras Courts.

"11. There is, therefore, no objection to the Bombay rulings being followed in the present instance, as it is clear the husband is otherwise fully competent to officiate as deputy for his wife. Government can safely leave it to the members of the original watandár's family on the death of the female representative watandár to contest with her husband or his relatives the question of the devolution of the watan estate now discussed.

"12. In the case reported in the Indian Law Reports, Volume VI., Bombay Series, page 87, *Bulákhidás* v. *Keshavlál*, Mr. Justice Melvill says: 'In this Presidency, and especially in Gujarát from whence this case comes, the Vyavahára Mayukha, is a principal authority, and on the strength of Chapter IV., Section 8, paragraph 10 of the Mayukha, it has become the established rule in this Presidency that daughters take by inheritance an absolute estate and not a limited interest as they would under the Mitákshara.' It seems from this remark that the interpretation of the Mitákshara which has been unhesitatingly adopted by the Privy Council must be accepted in this Presidency, but inasmuch as the Mayukha is a principal authority in this Presidency and more especially in Gujarát, we must fall back on the Mayukha which Mr. Justice Melvill declares to be a sufficient authority that daughters take not only absolute but several estates, and consequently, when not having any issue, may dispose of such property during life or may devise it by will."*

APPENDIX D.

Opinion of the Honourable the Advocate General quoted in G. R. No. 6444, dated 30th August 1883:—

"I quite agree with Mr. Naylor in his reports 11 and 554 of 1883.

"A watandár is defined in section 4 of the Bombay Hereditary Offices Act (Bombay Act III of 1874) to be 'a person having an hereditary interest in a watan.'

"Hereditary interest means an interest that a person has obtained through, or which has descended to him from, an ancestor.

"According to Hindu Law a son by birth acquires an hereditary interest in ancestral estate. Thus in the genealogy given by the Revenue Commissioner, Wáman on his birth acquired an hereditary interest in the watan and had in the life-time of his father, Malhár, and of his uncles, Sakhárám and Amrit (assuming he was born in their life-time), a present interest in the watan and was a watandár within the definition given by section 4. In like manner if Sakhárám and Amrit had had sons, such sons would likewise have acquired by birth present interests in the watan and would have been watandárs.

"But the class that acquires such interest by birth is confined to the lineal descendants of the acquirer of the property and does not comprise collateral members of the acquirer's family. Such collateral members have the possibility of succeeding to the property if the acquirer's descendants become extinct; but until such descendants become extinct such collaterals have no interest or estate in the property. There is no such thing as a vested remainder in Hindu Law.

"Thus to revert to the Commissioner's genealogy, the watan was acquired by Rághopant, brother of Visáji, the ancestor of Antáji; and Visáji never had any interest therein. Consequently his descendants including Antáji never acquired by birth or otherwise any interest. Nothing shows this more clearly than the fact that on the death of Wáman without male issue his widow as his heir succeeded to the watan in preference to Antáji, and Antáji has now no interest in the watan. His right (if any) to succeed depends upon his surviving the widow, for he has no vested remainder; and if he does succeed the watan will be self-acquired property in his hands and not ancestral property which again shows that he has now no hereditary interest in the watan and consequently is not a watandár."

* On this point *vide* now I. L. R. II. B. 285 and G. R. 2793 of 3rd May 1888, R. D., quoted *supra* p. 205.

PART VII.

BOMBAY LOCAL BOARDS' RULES.

Bombay Castle, 21st November 1884.

Rules (I) made under Sections 51, 52, 53, 54, 60 and 69 (*c*) and (*d*) of the Bombay Local Boards' Act, 1884, for regulating the general administration of Local Funds business throughout the Presidency of Bombay, except Sind,* and (II) under Section 48 (*b*) of the Act for determining the relations between the various local boards in the aforesaid area and the Educational Department in educational matter :—

CONDUCT OF BUSINESS.

1. Every district local board shall hold a general meeting for the disposal of general business not less than twice a year, namely once in the month of June and once in the month of November, or if in any district either or both of the said months is or are unsuitable, in such other month or months as shall be approved in this behalf by the Governor in Council.

At least two general meetings to be held each year.

(Notn. No. 9248, *B. G. G.*, 1884, Pt. I., pp. 1043 to 1093.)
(Notn. No. 78, *B. G. G.*, 1885, Pt. I., p. 17.)
(Notn. No. 5133, *B. G. G.*, 1885, Pt. I., p. 802.)

†2. Every local board shall delegate to a committee, which shall be called "The Works Committee," and shall consist of not less than three members, the duty of inspecting works in progress under such board.

Appointment of a Works Committee for :

It shall be a standing instruction to the said committee that one or more members thereof shall visit every work in progress at least once in every month : Provided that if the work is being executed for the local board by the Government Executive Engineer, any complaint, observation or suggestion which the committee, on the report of the visiting member or members, may desire to make, shall be communicated by the chairman of the committee, without delay, in writing to the Government Executive Engineer, who shall, to the best of his ability, give effect to the committee's recommendation, unless there is good cause for not doing so.

the inspection of works in progress ; and

The local board may delegate to the works committee such other powers and duties as it thinks fit, either generally or with respect to any specified work or works not being executed for the board by the Government Executive Engineer.

the discharge of other powers and duties in respect of works.

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* The Rules for Sind follow these very closely. The points of difference are indicated in the following foot-notes :—

† The following is in Sind substituted for Rule 2 :—Every District Local Board may, and every Táluka Local Board shall, delegate to a committee, which shall be called "The Works Committee," and shall consist of not less than three members, the duty of inspecting works in progress under such Board. (G. N. No. 2107, S. O. G., January to June 1886, Pt. 1-A., p. 32.)

Officer or servant receiving emoluments exceeding Rs. 50 per month not to be punished or discharged except by vote of a majority of the district local board at a meeting.

3.* No officer or servant maintained by a district local board, whose monthly emoluments exceed fifty rupees, shall be punished or dismissed, except upon a majority of votes of members present at a meeting of the said board.

Appeal to lie to the full board against order of a committee for punishing or dismissing an officer or servant receiving emoluments not exceeding Rs. 50 per month.

4.† If a district local board thinks fit to delegate the power of punishing or dismissing officers and servants whose monthly emoluments do not exceed fifty rupees, to a committee, such delegation shall in every case be subject to a right of appeal to the full board; and no appeal from any such officer or servant against an order of the committee punishing or dismissing him shall be disposed of except upon a majority of votes of members present at a meeting of the board.

Grounds of dismissal of an officer or servant and his grounds of defence to be entered in the minute-book.

5.‡ No officer or servant shall be dismissed by a district local board for misconduct unless reasonable opportunity has first of all been given to such officer or servant of explaining and defending his conduct; and, whenever, an officer or servant is dismissed for misconduct by a committee or by a district local board, or any such order of dismissal by a committee is confirmed by a district local board, the grounds of such dismissal or order of confirmation shall be fully set forth in such committee's or board's minutes of proceedings, together with a statement of the grounds of such officer's or servant's defence.

* The following is in Sind substituted for Rule 3:—The Local Board may delegate to the President the power of appointing any or all servants of the Board and may from time to time cancel such delegation.

No officer or servant maintained by a District Local Board, whose monthly emoluments exceed fifty rupees, shall be punished or dismissed, except upon a majority of votes of members present at a meeting of the said board. (G. N. No. 365, S. O. G., January to June 1887, Pt. I-A., p. 6.

† The following is in Sind substituted for Rule 4:—If a District Local Board thinks fit to delegate the power of punishing or dismissing officers and servants whose monthly emoluments do not exceed fifty rupees to the President, such delegation shall in every case be subject to a right of appeal to the full board; and no appeal from any such officer or servant against an order of the President punishing or dismissing him shall be disposed of except upon a majority of votes of members present at a meeting of the board. (G. N. No. 2107, S. O. G., January to June 1886, Pt. I-A., p. 32.)

‡ The following is in Sind substituted for Rule 5:—No officer or servant shall be dismissed by the President or District Local Board for misconduct unless reasonable opportunity has first of all been given to such officer or servant, of explaining and defending his conduct; and whenever an officer or servant is dismissed for misconduct by the President or District Local Board, or any such order of dismissal by the President is confirmed by a District Local Board, the grounds of such dismissal or order of confirmation shall be fully set forth in such President's or board's minutes of proceedings, together with a statement of the grounds of such officer's or servant's defence. (G. N. No. 2107, S. O. G., January to June 1886, Pt. I-A., p. 32.)

Correspondence between local boards to be conducted through their presidents, or secretaries, if any.

6. Correspondence by or with local boards shall be conducted through their respective presidents, or, if any local board appoints a secretary, through such secretary.

Frequent inter-communication to be maintained between district local boards.

7. Every district local board shall maintain frequent communication with the district local boards of the adjacent districts with a view to unity of action and co-operation in all works, services and institutions of general benefit to the several areas subject to the authority of the said boards.

Tenders to be publicly invited before contracts are entered into.

8.* Before any contract for the supply of materials or for the execution of any work is entered into by a local board, tenders shall be publicly invited by advertisement in one or more of the local newspapers, if any, and in such other manner as the board thinks fit, from persons willing to enter into such contract.

Lowest tender to be generally accepted.

The local board shall not bind itself, and shall not be bound to accept the lowest or any tender, but, as a rule, the lowest tender received from a trustworthy person shall be accepted.

ANNUAL BUDGET ESTIMATES.

Form of estimate of revenue and receipts to be furnished to the local boards by the Collector.

9. The return to be furnished by the Collector on or before the 1st October every year under section 53 of the Act, to each local board shall be in the form No. 1 hereto annexed.

The said form is prepared for an entire district, but the return for a táluka shall include only so much as relates to that táluka.

Form of certificate to be furnished by the Collector to the district local board under section 47 of the Act.

10. On the reverse of the return furnished by the Collector under the last preceding rule to the district local board he shall certify, in the form No. 2 hereto annexed, for the purposes of section 47 of the Act, the amount of cess levied or which it is estimated will be levied, as the case may be, in each municipal district and cantonment in the district.

An extract from this certificate shall be sent by the Collector to each municipality and cantonment committee concerned.

* The following is in Sind substituted for Rule 8:—Before any contract for the supply of materials, or for the execution of any work, the cost of which is estimated to exceed Rs. 2,500, is entered into by a Local Board, tenders shall be publicly invited by advertisement in one or more of the local newspapers, if any, and in such other manner as the board thinks fit, from persons willing to enter into such contract. (G. N. No. 207, S. O. G., January to June 1886, Pt. I-A., p. 32.)

Copy of Collector's return and certificate to the district local board to be sent by him to Government Educational Inspector.

11. A copy of the return furnished by the Collector under Rule 9 to the district local board and of the certificate on the reverse thereof shall be forwarded by him simultaneously to the Government Educational Inspector.

Form of statement of distribution of local fund cess to be made by district local board to táluka local boards under Section 53 of the Act.

12. The communication to be made before the 1st of November every year by the district local board, under Section 53 of the Act, to each táluka local board, of the probable amount of the local cess which will be at the disposal of the latter in the next following official year shall be made in the Form No. 3 hereto annexed.

Form of budget estimate to be prepared by local boards.

13. The budget estimate of every local board shall be prepared in the Form No. 4 hereto annexed.

The said form consists of four parts, *viz.* :—

Part I., the General Budget Estimate;

Part II., the Abstract of Estimated Expenditure on Public Works;

Part III., the Detail Estimate of Works of first construction;

Part IV., the Detail Estimate of Repairs.

(Notn. No. 6072, *B. G. G.*, 1886, Pt. I., p. 488.)

District local board to annex a separate educational budget-estimate to the general budget-estimate.

To the district local board's budget-estimate there shall be attached two additional parts, namely Part V., consisting of a Detail Estimate of Tools and Plant, and Part VI which shall be called "The Educational Budget Estimate" and shall show, under the same heads and sub-heads as in Part I., the balance in hand and the revenue and receipts to be devoted to educational purposes and the amounts to be expended on the said purposes.

Budget-estimate to be based on detail estimate.

14. Every item of expenditure entered in the budget-estimate, Part I., shall be based upon a separate detail estimate, which, except in the case of the detail estimates for works and repairs, need not form part of the budget-estimate, but should be filed, for reference, in the records of the board which frames the budget.

Government departmental officers should be freely consulted in preparation of budget-estimates.

15. In preparing their budget-estimates the local boards and their officers should freely consult the Revenue, Educational and other local Government officers with a view to obtaining the fullest possible information on all points connected therewith.

In order to aid the district local board in framing the educational budget-estimate, Government Educational Inspectors shall, not later than the 1st November, furnish to that board a detailed statement, under the appropriate heads and sub-heads of the budget-estimate, of all revenue and receipts for educational purposes and of all charges which under the orders of Government at the time in force under section 48 (*b*) of the Act, have necessarily to be defrayed by the board on account of primary education, together with full explanations.

Educational Inspectors to furnish district local boards with statement of necessary charges for primary education.

16. The following shall be classed in the budget-estimate as works of first construction, and shall be called "original works," *viz.* :—

Definition of "original works."

(*a*) entirely new constructions;
(*b*) additions or alterations to existing works;
(*c*) repairs to buildings or works newly purchased;
(*d*) repairs to buildings or works which are brought into use after being abandoned or which are to be adapted to any new purpose;
(*e*) repairs to buildings or works (not including renewal of earthwork or metalling of roads regularly maintained) which involve an expenditure of more than one-fourth of the original value of such buildings or works;
(*f*) a construction of one description substituted for a construction of some other description, as a tiled for a thatched roof or iron girders for wooden beams.

17. All repairs, whether ordinary or special, which do not fall within the last preceding rule, shall be classed in the budget-estimate as repairs.

Definition of "repairs."

18. The detailed estimates approved by the local board and the plans and estimates prepared or approved by the Government Executive Engineer, which are required by Section 57 (*b*) of the Act to be attached to the budget-estimate, should be attached to the original budget-estimate retained by the local board. Copies of these detailed estimates and plans and estimates need not accompany the copy of the budget-estimate which the president of each local board is required, by section 57 of the Act, to forward to the Collector not later than the 10th December.

Copies of detailed estimates, &c., required by Section 57 (*b*) of Act, need not accompany copy of budget-estimate to be forwarded to the Collector.

19. On receipt of a copy of each budget-estimate the Collector shall verify the balances and the receipt-side of the estimate, and from the budget-estimates of all the local boards of the district shall cause one general budget for the whole local fund of the district to be prepared in the form

(G. N. No. 9463, *B. G. G.*, 1885, p. 103.)

Collector to forward budget-estimates to the Accountant General after verification of balances and receipts.

No. 4 hereto annexed, and forward a copy thereof with abstracts showing the details for each local board in time to reach the Accountant General not later than the 20th December.

Educational budget-estimate to be forwarded to the Director of Public Instruction.

He shall also forward a duplicate copy of the district local board's educational budget-estimate, without delay, to the Director of Public Instruction, through the Government Educational Inspector. The Director of Public Instruction shall examine the said budget-estimate with a view to satisfying himself that all the obligatory charges for primary education have been provided for and that the entries on the receipt side are correct, and shall forward the copy thereof to the Accountant General.

District local board to forward extract from its budget-estimate to each táluka local board.

20. Every district local board shall forward to each táluka local board subordinate to it an extract of so much of the district local board's own budget-estimate as shall be necessary to convey to the táluka local board full information of the works, services, &c., to be executed or maintained in the táluka subject to its authority by the district local board.

(G. N. No. 4072, *B. G. G.*, Pt. I., 1886, p. 488.)

Copies of Parts II.—V. of budget-estimate to be forwarded to the Examiner, Public Works Accounts.

20*A*.—A copy of each of the parts II.—V. of each local board's budget-estimate as finally approved and sanctioned, shall be forwarded by the President of the local board to the Examiner, Public Works Accounts, not later than the 15th March.

Government Executive Engineer to be supplied with sanctioned plans and estimates of works which are to be carried out by him.

20*B*.—The sanctioned plans and estimates of works which are to be carried out by the Government Executive Engineer shall be sent to that officer by the President of the local board for which such works are to be executed for information and record in his office.

The Government Executive Engineer will thereupon forward to the Examiner of Public Works Accounts copies of the abstracts of the said estimates.

Revised or supplementary estimates when to be forwarded.

21. A copy of every revised or supplementary estimate of a local board duly approved or sanctioned under the provisions of the Act shall be forwarded by the President of such local board, without delay, to the Collector and a duplicate copy thereof shall be at once forwarded by the Collector to the Accountant General.

(G. N. No. 4072, *B. G. G.*, 1886, p. 489: also G. N. No. 2334, B. O. G., July to December 1886, Pt. I-A., p. 2.)

When any such revised or supplementary estimate provides for any work to be executed by the Government Executive Engineer, the President of the local board shall (as in the case of an original budget-estimate under Rule 20*A*), forward a copy of each of the Parts II., III. and IV., and also, if necessary, of Part V., without delay, to the Examiner,

Public Works Accounts. A copy of the abstract of the sanctioned estimate for each such work shall be supplied to the Examiner by the Government Executive Engineer."

Statement of re-appropriations to be forwarded to the Collector monthly.

22. The statement of re-appropriations required to be sent to the Collector by each local board under section 57 of the Act shall be sent in the first week of each month in the form No. 5 hereto annexed, and a duplicate copy thereof shall be forwarded by the Collector, without delay, to the Accountant General. (G. N. No. 4072, *B. G. G.*, 1886, p. 489 : also G. N. No. 2334, S. O. G., July to December 1886, Pt. I.-A., p. 2.)

An extract of so much of the statement as relates to works and repairs to be executed by the Government Executive Engineer shall be sent by the president of the local board, in the same form No. 5, to the Examiner, Public Works Accounts, at the same time that the original statement is sent to the Collector.

Allotments for minor works or charges also to be shown in statement forwarded under last rule.

23. When a lump sum has been provided in a budget-estimate for minor or unforeseen works or charges, the allotments made by the local board from time to time from such sum for any such work or charge shall also be shown in the monthly statement to be forwarded to the Collector and in the extract of the said statement to be sent to the Examiner, Public Works Accounts, under the last preceding rule.

Indispensability of budget provision before expenditure is incurred.

24. The approval of an estimate of the cost of a work or service and the provision of funds for the execution or maintenance of that work or service are two entirely distinct proceedings. The mere approval of an estimate does not authorize the outlay of funds on a work or service. Both the approval of the estimate of the cost and provision of funds for the same in a budget-estimate are necessary before a work or service can be commenced.

Exception.

To this rule the only admissible exception is the case of a pressing emergency provided for in section 58 of the Act.

ACCOUNTS.

Where and in what forms to be kept.

Local boards' accounts to be kept in the Government Treasury offices.

25. Accounts of the receipts and expenditure of every local board shall, until further orders, be kept in the Government treasury offices of the district, the cost of the establishment entertained for this purpose being charged to the district local board under section 46 (*c*) of the Act.

*The said establishment shall be distinct from the ordinary establishment of the treasury office and shall be called "the Local Fund Branch of the Treasury office."

Distribution of the accounts between huzúr and táluka treasury offices.

26. The said accounts shall be kept chiefly at the huzúr treasury office.

At the táluka treasuries simple cash books only will be kept, the classified accounts being made up in the local fund branch of the huzúr treasury office.

An extract from the cash-book kept at each táluka treasury shall twice a month be sent to the local fund branch of the huzúr treasury office, accompanied by vouchers and chaláns in original for incorporation in the huzúr local fund accounts.

Accounts to be kept at the huzúr treasury office.

27. In the local fund branch of the huzúr treasury office there shall be kept—

(1) a cash-book to show all receipts and detail all sums paid out of the local fund by cheque;
(2) a classified register of receipts, with a column for each local board in the district;
(3) a similar register of payments.

Petty cash-books to be kept for transactions under paragraph 3 of section 50 of the Act;

28. For each local board a petty cash-book shall be kept in the local fund branch of the treasury office at such local board's head-quarters, distinct from the general cash-book of the board, to show:

(*a*) on the receipt side, every sum received by the local board on a cheque drawn in accordance with the last paragraph of section 50 of the Act, and

(*b*) on the expenditure side, every sum paid out of the monies so received.

and may be kept, if desired, in the local board's office.

If any local board so desires, this petty cash-book may be kept in the local board's office by any officer appointed by the board for this purpose, instead of in the treasury office.

Accounts in what forms to be kept.

29. The aforesaid accounts shall be kept in the standard forms prescribed for treasury accounts, subject to such variations as shall from time to time be directed by the Accountant General for the purpose of adapting them to the system of local fund administration.

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* The following is in Sind substituted for para. 2 of Rule 25:—When separate establishment is entertained for treasury work it shall be distinct from the ordinary establishment of the treasury office, and shall be called "the Local Fund Branch of the Treasury office." (G. N. No. 2107, S. O. G., January to June 1886, Pt. I-A., p. 32).

Accountant General may direct other subsidiary accounts to be kept.

The Accountant General shall be competent to direct such other subsidiary accounts or registers to be kept in the local fund branch of any treasury office as he may deem requisite for the purpose of furnishing the local boards with information which they find to be necessary.

Local board's accounts to be open to inspection of the local board.

30. The accounts of a local board kept at the local fund branch of any treasury office shall be open to inspection, at all times during office hours, by any member of the local board or by any person appointed by the local board to inspect the same.

Information regarding local fund accounts to be furnished to local boards by local fund branch of the treasury office whenever required.

The local fund branch of every treasury office shall, at the request of any local board in the district, furnish to such local board, without delay, all such information in local fund account matters as it may be in their power to furnish.

Crediting of Revenue and Receipts.

Details of local fund revenues administered by Collector or Magistrate of the district to be shown in the Collector's accounts.

31. The detailed accounts of each item of revenue specified in section 44 of the Act, which is subject to the administration of the Collector or Magistrate of the district, will form part of the Collector's imperial and provincial accounts.

Net proceeds to be credited to local fund monthly.

The net proceeds of the collections on account of each such item, together with any proceeds of cattle-pounds ordered to be placed to the credit of the fund by Government under section 1 (*b*) of Act XVIII of 1883,* shall be credited to the local fund monthly under advice from the Collector.

Statement of monthly net proceeds of such revenues to be furnished to district local board.

32. The officer in charge of the Huzúr Government treasury shall furnish to the district local board, at the close of each month, a statement in such form and classified in such detail as the Accountant General from time to time directs, of the amounts to be credited to the district local fund in accordance with the last preceding rule for the month then passed, and the amounts so advised shall be entered in the huzúr office local fund cash-book before it is closed for the month.

* An Act to amend the Cattle Trespass Act (I of 1871) by empowering Local Governments to transfer functions of District Magistrate or Local Government to local authority and to direct that surplus receipts be credited to local fund.

33. Every sum ordered by Government to be placed to the credit of the local fund otherwise than under section 1 (*b*) of Act XVIII of 1883 shall be so credited in accordance with the particular orders of Government with regard thereto.

Sums contributed by Government other than cattle-pound proceeds to be credited according to orders of Government.

34. Contributions to any local board by private individuals or from other funds should be paid into the Government treasury most conveniently situated for the purpose, and will be credited in the huzúr office local fund cash-book to the local board on whose account they are, respectively, paid in, a separate register being kept showing the amount of such contributions and the purposes for which they are respectively received and the manner in which they are applied.

Private contributions to local board to be credited in the huzúr office.

When any such payment has been made, the officer in charge of the local fund branch of the Huzúr treasury office shall intimate, in writing, to the local board concerned, the receipt of the money, and no expenditure may be incurred by the local board on account of the contribution until such intimation has been received.

Expenditure on account of contributions not to be made till receipt of intimation that contributions have been credited.

35. Monies received by any local board in the execution of the Act may not, under any circumstances, be retained for expenditure, but shall be paid daily into the local fund branch of the nearest Government treasury, accompanied in each case by a chalán signed by such member or members of the local board or by such officer thereof as shall be appointed by the local board for this purpose.

Monies received by local boards in execution of the Act to be paid into the treasury and not retained for expenditure.

36. The amount to be credited to the local fund monthly in accordance with Rule 31 shall be distributed between the different local boards in the classified register of receipts in conformity with the provision contained in section 45 of the Act, which prescribe by or under the direction of which of the several local boards in a district each portion of the local fund shall be available for expenditure.

Distribution of revenues credited under Rule 31 between the several local boards.

In the case of the cess levied under the Bombay Local Funds Act, 1869* the net proceeds of the collections in each táluka shall in the first instance be credited to the local board of that táluka, and as

Adjustment of credit of local fund cess proceeds according to district local board's decisions under clause (*a*) (5), section 45 of the Act.

* In the Sind-Rules the words "Sind Local Fund Act, 1865," are substitued for the words "Bombay Local Funds Act, 1869."

soon as possible after the district local board has determined, under clause (*a*) (5) of section 45 of the Act, the portion of the said proceeds to be appropriated by it for the purpose described in the said clause, an adjustment shall be made in the classified register of receipts by *plus* and *minus* entries, thus:

	District Local Board.	Táluka Local Board of	Táluka Local Board of	District Total.
Local Fund Cess—				
Net Proceeds...	..	...	...	...
Adjustment as per memo. annexed—				
(1) On account of Education ...	+ ...	— ...	— ...	...
(2) On account of general charges under section 46	+ ...	— ...	— ...	...
(3) On account of through communications, &c., under section 49	+ ...	— ...	— ...	...

Provisions concerning Expenditure.

37. The costs incurred each month by the Government Executive Engineer in executing works on behalf of any local board, together with the charge payable under paragraph three of section 61 of the Act on account of the Government establishment with whose aid any such work is executed shall be paid by the local board by a cheque drawn in favour of Government on the local fund in the Huzúr Government Treasury.

Cost of works executed by Government Executive Engineer to be paid by local boards by cheque in favour of Government.

Such cheques shall be issued on the requisition of the Government Executive Engineer, accompanied by a progress report showing the expenditure during the month then passed on each work and the charge for Government establishment.

Monthly requisition to be made by Government Executive Engineer, accompanied by progress report.

For the month of March in each year the said requisition shall be submitted by the Government Executive Engineer before the close of the month and shall be accompanied by a preliminary progress report. The requisition and the cheque issued thereupon shall be for the approximate outlay of the month, rather less than more, leaving the balance to be settled when the accounts of the financial year ending with the 31st March are finally audited.

Special provision for the month of March.

38. Government Executive Engineers shall keep accounts of their expenditure on works executed for any local board in the same forms and subject to the same rules and orders as are applicable in the case of works executed by them for Government.

Government Executive Engineers' accounts of expenditure to be kept under the Government Public Works Department's rules, and

* The scrutiny and audit of the said accounts shall be conducted by the same officers and in the same manner as in the case of Government Public Works accounts, the charge therefor being fixed by Government from time to time under clause (*c*) of section 46 of the Act.

to be audited like Government Public Works Department accounts.

39. The disbursement of all educational charges within the district, except charges for works, shall be effected through the Government Educational Inspector.

Payment of current educational charges to be made under a letter of credit through the Government Educational Inspector.

For this purpose the Educational Inspector shall submit to the district local board a quarterly statement of the charges to be defrayed during the quarter in accordance with sanctioned rates and the budget provision, and, after examination, the said statement shall be countersigned by the president (or vice-president) and one member of the district local board and endorsed with a letter of credit upon the local fund for payment, on production of proper vouchers, of the amounts therein entered.

40. Every officer of a local board who expends money on behalf of the board on an imprest advance shall keep an Imprest Cash Account in the form No. 6 hereto annexed.

Imprest cash account to be kept by officers who expend from advances.

Claims, Vouchers, Bills.

†41. Every claim against a local board which has to be discharged by such board by cheque shall, in the first place, be examined in the local fund branch of the huzúr or táluka treasury as to its formal and arithmetical correctness, and as to the existence of budget provision and of due authority from the local board for the charge. It shall then be forwarded to the local board for final approval and countersignature by the president (or vice-president).

Claims against local boards to be examined in the local fund account office and approved and countersigned by President.

When a bill has been formally approved, the No. and date of the cheque issued in payment of it shall

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* With reference to para. 2 of No. 38, the following orders have been issued under sections 46 and 60 :—

By the Governor in Council No. 153 A.—175 of 1885, *B. G. G.*, 1885, Pt. I., p. 465.

By the Commissioner in Sind similar orders for Sind Notification No. 1655, S. O. G., January to June 1885, Pt. I., p. 425.

Vide *infra* p. 240.

† The following is in Sind substituted for para. 1 of Rule 14 :— Every claim against a local board which has to be discharged by such board by cheque, shall, in the first place, be examined in the local fund branch of the huzúr or táluka treasury as to its formal and arithmetical correctness, and as to the existence of budget provision and of due authority from the local board for the charge. It shall then be forwarded for final approval and countersignature by the president or vice-president. (G. N. No. 2107, S. O. G., January to June 1886, Pt. I-A., p. 32.)

44. Completion certificates in form No. 10 shall be signed by such members of the local board or by such officer of the local board or such other person as the local board shall direct.

Completion certificates by whom to be signed.

Completion certificates in form No. 11 shall be signed by not less than two members of the works committee.*

In the case of any work, whatever its cost, requiring professional skill or as to which any doubt exists, the local board may require the completion certificate to be signed by the Government Executive Engineer.

In the case of a school building the completion certificate shall be signed by the Government Educational Inspector.

45. The officer appointed under paragraph three of Section 50 of the Act shall, when he needs to recoup his advance, submit a bill with particulars of all payments he has made up to date for examination and disposal under Rule 41 supported by sub-vouchers prepared in accordance with clauses (1) to (5) of Rule 42, or when nothing in those clauses is applicable, by the payee's receipt.

Bills to be presented for sums drawn to recoup advances under para. 3 of Section 50 of the Act.

(Notn. No. 9511, *B.G.G.*, 1885, Pt. I-A., p. 104:

45A. A local board may authorize the payment of an advance to a contractor

Payment of advances

(To be inserted in the margin of Rule No. 46 of the Rules made under Sections 51, 52, 53 and 69 (*c*) and (*d*) of the Bombay Local Boards Act, 1884, at page 234 of the Compilation of Rules in force in the Revenue Department.)

[Notification No. 1558, *Bombay Government Gazette*, 1892, Part I-A, pages 25 and 26.]

In No. 46 of the said Rules, all after the words "to the Local Fund" therein shall be cancelled.

After the said Rule No. 46, the following new rule shall be inserted, viz.:

Cheques what to contain.

"46*A*. (1) Every cheque shall specify briefly the claim in respect of which it is issued.

"(2) If the cheque is intended to cover more than a single claim, each claim shall be briefly detailed on the reverse of the cheque.

"(3) No cheque issued in payment of a Government demand to be adjusted at the Treasury or in payment of a grant-in-aid to a municipal or other local fund, shall include the amount of any other claim.

"(4) Deductions to be made on account of service fund or otherwise shall be detailed on the reverse of the cheque in such manner as to inform the Treasury Officer how much he is to pay in cash, and what amount he is to adjust by credit in the Government accounts."

be noted thereupon, and it shall then be returned to the local fund branch of the Government treasury for record and entry in the accounts.

Claim must be supported by vouchers.

42. Every claim against a local board must be supported by one or more vouchers as follows:—

(1) for all educational charges and charges for establishment bills similar to those in use for such claims against Government must be made out;

(2) for sums payable to Government or to Government departments the original claim must be supported by an acknowledgment of receipt;

(3) for payments for labour employed on works a muster-roll in form No. 7 hereto annexed must be prepared;

(4) payments to contractors for works must be made on bills in form No. 8 hereto annexed and signed by the officer or servant who has taken the measurements of the work and countersigned by the chairman of the works committee; (G. N. No. 1781, *B. G. G.*, 1885, Pt. I., p. 283.)

Ditto.

(5) payments for materials for works executed by a local board's own employés must be made on bills in form No. 9 hereto annexed and signed by the officer or servant who has received the materials and countersigned by the chairman of the works committee.

(6) when a payment is required to recoup an imprest advance, a copy of the imprest cash account and of the summary annexed thereto must be presented, supported by sub-vouchers prepared in accordance with the foregoing clauses of this rule, or, when nothing in those clauses is applicable, by the payee's receipt and endorsed with a certificate concerning the balance, if any, in hand, in the following form:

	Rs.	a.	p.
"Local Board's cheques (in favour of self) received and not yet cashed...			
"Currency notes			
"Rupees and half-rupees ...			
"Small silver			
"Copper			
Total Rs. ...			

"certified that the above balance as detailed is actually in my possession.

(Signed)."

Completion certificates requisite for works;

43. To the voucher for the last payment for any work, whether of first construction or of repair, costing over five hundred rupees or, in the case of a road, more than fifty rupees per mile, a completion certificate shall be attached in the form No. 10 hereto annexed.

and may for small works be furnished in the form of a monthly return.

Completion certificates for works not costing more than the above amounts may be furnished in a monthly return, instead of separately, in the form No. 11 hereto annexed.

consecutive number of the cheque-form, and the president should notify to the treasury upon which he draws the number of the cheque-book which he from time to time brings into use.

in whose custody to be kept.

The cheque-books should remain under lock and key in the personal custody of the president (or vice-president) who, when relieved, should take a receipt for the correct number of cheques made over to the relieving member.

Register of cheques to be kept, and

48. The president shall cause a register of cheques issued to be maintained giving the number, date and amount of each cheque and in whose favour issued.

to be initialled by treasury officer.

This register should be provided with a column in which the officer in charge of the local fund branch of the treasury office shall note the date of payment under his initials.

Abstract of Accounts.

Form of abstract of accounts required by Section 52 of the Act.

49. The annual abstract of the accounts of each local board, required by Section 52 of the Act to be forwarded by the president to the Collector or other officer appointed by him, shall be in the Form No. 13 hereto annexed and shall be prepared in the local fund branch of the treasury office.

A copy of the district local board's abstract shall be sent by it to each táluka local board subordinate to it, and each táluka local board shall forward a copy of its abstract to the district local board.

Audit.

Audit to be by or under superintendence of the Accountant General.

50. The accounts of every local board shall be examined at least once a year by or under the superintendence of the Accountant General who, unless Government at any time appoint a special auditor, shall be the auditor appointed by Government under Section 60 of the Act.

Audit-reports to be for the financial year.

The audit-report on each local board's accounts required by paragraph three of Section 60 of the Act shall be made annually for the financial year ending on the 31st March and shall be published as soon as convenient after the closing of the accounts for March.

Audit to be partly local and partly by means of monthly accounts.

51. The Accountant General shall conduct the audit of local boards' accounts by means of the local examination prescribed in the last preceding rule and also on a

monthly cash account which shall be rendered to him in the Form No. 14 hereto annexed.

Monthly accounts to be rendered to the Accountant General by the account office with strict punctuality.

The account shall be prepared in the local fund branch of the huzúr treasury office, and shall be submitted with strict punctuality, so as to be in time to accompany the monthly cash account forwarded to the Accountant General from the huzúr treasury office. It shall be accompanied by the original vouchers on which payments have been made, except in the case of works not executed by the Government Executive Engineer. In the case of such works it shall be accompanied by an abstract prepared in the Form No. 15 hereto annexed, with the certificate therein prescribed duly signed by the officer in charge of the Huzúr treasury and having attached thereto such original vouchers only as are required by the said certificate. The details given in this abstract need not be repeated in the cash account.

(G.N.No.8416, *B. G. G.*, 1886, Pt. I-A, p. 104: also G. N. No. 4929, S. O. G., 1886, July to December, Pt. I-A, p. 4.)

Audit of Government Executive Engineer's accounts by Examiner of Public Works Accounts to be accepted as final by Accountant General.

The account for works executed for local boards by the Government Executive Engineer shall be rendered to the Accountant General, after audit, in accordance with Rule 38, by the Examiner of Public Works Accounts, and shall be accepted by the Accountant General as final.

Monthly detailed statement of educational receipts and charges to be rendered to the Government Educational Inspector.

52. To enable the Government Educational Inspector to see that educational receipts are duly brought to account and to supervise and control the disbursement of educational charges effected, in accordance with Rule 39, through him, a monthly detailed statement, in such form as the Director of Public Instruction shall from time to time require, of all educational receipts and charges shall be prepared in the local fund branch of the huzúr treasury office and forwarded, with duplicates of the vouchers for educational charges submitted under the last preceding rule to the Accountant General, to the Government Educational Inspector.

Annual Establishment Returns.

Annual return of establishment entertained by district local board to be forwarded to Accountant General by the Collector on 1st April yearly.

53. On the 1st April of each year, or soon after, the Collector shall obtain from the district local board, in the forms prescribed for similar returns of Government establishments, a statement of the establishment sanctioned by the board under Section 38 of the Act, as the same stood on the 1st April.

Intermediate changes in sanctioned establishment to be communicated.

The district local board shall communicate to the Collector, for the information of the Accountant General, any change made from time to time in the sanctioned schedule of establishment.

DUTIES OF THE GOVERNMENT EXECUTIVE ENGINEER.

Certain plans and estimates to be submitted for approval of Superintending Engineer before being approved or furnished by Government Executive Engineer.

54. The Government Executive Engineer, before approving under section 57 (*b*) of the Act, a plan and estimate of any work which, under the orders of Government at the time being in force under section 61 of the Act, will have to be executed by himself and, before furnishing to a local board a plan and estimate of any such work prepared by himself, shall obtain thereto the approval of the Superintending Engineer to whom he is subordinate. (Notn. No. 10345, *B. G. G.*, 1885, Pt., I-A., p. 117, and also G, N. No. 96, S. O. G., 1886. Pt. IA., p. 2.)

Government Executive Engineers to be subordinate to Government Public Works Department authorities and to follow all the rules of that department in execution of local boards' works.

55. The Government Executive Engineer shall be subordinate in all matters relating to the performance of his duties under the Act or under these rules to the same authorities to whom he is subordinate as an officer of the Government Public Works Department, and shall, in giving contracts for works which have to be executed by him for any local board and in all other details follow precisely the same rules and procedure which are applicable to the execution of works for Government, so far as the same are not inconsistent with the Act or with these rules.

Government Executive Engineer to be informed of works to be executed by him; and

*56. As soon as any local board's budget-estimate has been finally approved or sanctioned, the president (or vice-president) of the board shall inform the Government Executive Engineer of the works to be executed by him during the year to which the budget-estimate relates, and shall send to that officer, as required by Rule 20*B*, the original sanctioned plans and estimates of the said work. (G.N.No.4072, *B. G. G.*, 1886, Pt. I., p. 489: also G. N. No. 2334, S. O. G., 1886, Pt. I-A, p. 2.)

to arrange with local boards as to time, &c., for their execution.

The Government Executive Engineer shall arrange, in communication with the local board, the time when each such work shall be commenced and the rate at which the same shall be progressed with.

Plan and estimate may not be altered by Government Executive Engineer without concurrence of local board;

57. No alteration involving increased expenditure shall be made by the Government Executive Engineer in the plan or estimate of any work which he is executing for a local board without the previous concurrence of the board:

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* The following orders have been passed under section 61 as to the works to be executed by Government Executive Engineer:—

By the Governor in Council, Notification No. 254, *B. G. G.*, 1885, Pt. I-A., p. 112.

By the Commissioner in Sind, Notification No. 1656, S. O. G., 1885, January to June, p. 425.

Extract from Proceedings of Government in the P. W. D., dated 26th March 1885, *B. G. G.*, 1885, Pt. I., p. 465, and *B. G. G.*, 1885, Pt. I., p. 425. Vide *infra* pp. 239 and 240.

but in case of rise of prices he may submit revised estimate.

Provided that if a rise in prices necessitates a revision of the rates contained in the estimate, the Government Executive Engineer shall not be bound to act upon it but may, if he thinks fit, forward a revised estimate for the approval of the local board.

Government Executive Engineer to furnish an annual report to each local board, and

58. In addition to the monthly progress report to be furnished by the Government Executive Engineer, under Rule 37, to each local board for which he executes any work, the said officer shall furnish each such board with a general report annually at the close of each financial year.

also any requisite additional information.

The Government Executive Engineer shall at all times furnish to each local board for which he executes any work, any additional information of a similar nature to that embodied in the said reports which may be required by the board or its president (or vice-president).

Superintending Engineers' Administration Reports to embrace works executed for local boards by Government Executive Engineers.

59. The Government Executive Engineer shall forward a copy of his annual report to each local board, to the Superintending Engineer of his division; and the annual Administration Reports submitted to Government by Superintending Engineers shall contain an account of the principal works carried out for local boards by the Public Works Department.

MISCELLANEOUS.

Government officers not to accept remuneration out of local fund without previous sanction of Government.

60. Except as is otherwise provided in sections 48 (*b*) and 61 of the Act, no person employed in any Government office shall receive from any local board or out of any local fund any sum by way of remuneration for services rendered or to be rendered by him, without the previous sanction of Government obtained through the usual channel of communication.

Charges defrayable by district local boards under section 46 (*c*) of the Act not to be incurred without previous sanction of Government.

61. No officer or servant whose salary or allowances will be defrayable under Section 46 (*c*) of the Act by a district local board out of a local fund shall be employed in any Government office, and no expenses which will be defrayable as aforesaid shall be incurred by any Government officer without the previous sanction of Government obtained through the usual channel of communication.

* 61*A*. The following officers employed in Government offices on the business of local boards shall, previously to entering upon their office, furnish security as follows :— (Notn. No. 6843, *B. G. G.*, Pt. I-A., p. 483.)

Security to be furnished by certain officers employed in Government offices on local boards' business.

Local Fund Accountants	Rs.	2,000
Local Fund Clerk under the Collector, Panch Maháls	„	1,000
Local Fund Kárkúns under Mámlatdárs...	„	200

Any of the aforesaid officers at present employed, who, before this rule comes into force, has not furnished security of the above amount shall be required to do so without delay.

The provisions of Nos. 3-5 of the Rules under section 214 of the Bombay Land Revenue Code, 1879, published in Government Notification No. 7368 in the *Bombay Government Gazette* for 1881, pages 795—816, shall apply to securities furnished under this rule.

62. Before exercising any power vested in them by the Act in relation to any educational matter, the Commissioners shall advise with the Director of Public Instruction, and, in the event of a difference of opinion, shall refer the matter to Government before taking action.

Commissioners to advise with Director of Public Instruction before exercising any power under the Act relating to educational matters.

63. In order to secure uniformity the printed forms required by local boards under these rules shall be obtained by them, on payment, from the Government Central Press.†

Printing of forms, &c.

The forms Nos. 7, 8, 9 and 12 hereto annexed shall be printed in English interlined with the vernacular language of the district.‡

64. Rules 25 to 29, both inclusive, 31 to 34, both inclusive, 36 to 45, both inclusive, 50 and 51 shall not come into force until the 1st April 1885. Until that date local fund accounts shall continue to be kept on the system hitherto in force, so far as the same is not inconsistent with the Act.

Certain of these rules not to come into force till 1st April 1885.

ORDERS UNDER SECTION 61.

The following works shall be executed by the Government Executive Engineer of the district :— (Notn. No. 254, P. W. D., *B. G. G.*, 1885, Pt. I-A., p. 112.)

(1) Every work for which a plan and estimate, prepared or approved by the said Executive Engineer, are required by section 57, clause (*b*) of the

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* 61*A*. is omitted in the Rules for Sind.

† In Sind Rules the words "and all vernacular forms from the Commissioner's Press" are added.

‡ In Sind Rules the words "and these should be obtained from the Commissioner's Press" are added.

said Act, and of which the estimated cost exceeds Rs. 2,500; and

(2) Every such work, as aforesaid, of which the estimated cost does not exceed Rs. 2,500, but which the Government Executive Engineer of the district shall, for reasons stated, certify that it is desirable that he should execute, and which, on consideration of such certificate, the Commissioner of the division shall instruct the said Executive Engineer to execute.

By the Commissioner in Sind:—

(G. N. No. 1656, S. O. G., Jan. to June 1885, p 425).

(1) Every work for which a plan and estimate, prepared or approved by the Government Executive Engineer of the district, are required by section 57, clause (*b*) of the said Act, and of which the estimated cost exceeds Rs. 2,500, shall be executed by the said Executive Engineer.

(2) If it shall appear to a local board or to an Executive Engineer that any such work as aforesaid, of which the estimated cost does not exceed Rs. 2,500 should, for special reasons, be executed by the Executive Engineer, a report of the circumstances should be made, through the proper channel to the Commissioner in Sind, who, if he thinks fit, may pass a special order under the above section regarding the execution of the said work.

Extract from the Proceedings of Government in the Public Works Department, dated 26th March 1885.

(No. 153A—175 of 1885, *B. G. G.*, 1885, Pt. I., p. 465.)

The charge to be paid by local boards throughout the Presidency, except in Sind, for the scrutiny and audit of the accounts kept by Government Executive Engineers of their expenditure on works executed by them for the said boards, shall be at the rate of two per centum upon the outlay on such works."

Extract from the Proceedings of Government in the Public Works Department, dated 26th March 1885.

(No. 154A.—176 of 1885, *B. G. G.*, Pt. I., p. 465; G. N. No. 1657, S. O. G., Jan. to June 1885, Pt. I., p. 425.)

RESOLUTION.—By para. 3 of section 61 of the Bombay Local Boards Act, 1884, it is enacted that when any work is executed under that section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed, as shall be agreed upon between such board and the Executive Engineer.

2. Hitherto a fixed rate of 15 per cent. on the total outlay has been charged against local funds by the Public Works Department, in respect of any work executed by it at the cost of those funds, and it will probably be found most convenient both to the local boards and to the Public Works Department that the cost of establishment should, whenever possible, continue to be paid by a percentage rate.

3. The rate of 15 per cent., hitherto in force, included (1) the costs of audit, for which now under sections 46 and 60 of the above Act, a distinct charge, at the rate of 2 per cent., will be made, in accordance with Government Resolution No. 153A.—175, dated 26th March 1885, and (2) some charge, calculated at about 1·75 per cent., for the services of the Executive Engineer, which now, in accordance with the proviso to section 61 of the Act, are not to be charged for.

4. The deduction which ought, therefore, to be made from the 15 per cent. rate is 3·75; but the Governor in Council, being desirous of dealing liberally with local boards, and with a view to encourage agreements for pencentage payments, is pleased to authorize Executive Engineers to accept payment for Government establishments employed by them in the execution of works for local boards, at the rate of 10 per cent. on the total outlay on the works for which they are employed. If any local board is, in any case, not willing to agree to these terms, the Executive Engineer should, before coming to any agreement based upon the actual cost of the Government establishment to be employed, report the circumstances through the usual channel of communication, for the orders of Government."

FORM No. 1.

(See Rule 9.)

RETURN furnished by the Collector of _____ under Section 53 of the Bombay Local Boards Act, 1884, showing the {actual receipts / revised estimate / first estimate} of the Local Fund of the _____ {District / Táluka} for the year 18 -9 .

Sources as per Section 44 of the Act.	Táluka.	Táluka.	Táluka.	&c.	&c.	&c.	&c.	&c.	District Local Board's Receipts.	District Total.
Cess under Bombay Local Funds Act, 1869	000	000	000							0000
Deduct expenses of assessment and collection	00	00	00							00
B. Net amount credited* ...	0000	0000	0000							0000
Ferry receipts and penalties (Bombay Ferries Act, 1868) ...	0000	0000	0000							0000
Deduct expenses of collection and maintenance of Ferries ...	00	00	00							00
C. Net proceeds ...	0000	0000	0000							000
Tolls and leases of tolls (Sections 41 and 42 and Bombay Act 3 of 1875)	0000	0000	0000							000
Deduct expenses of collection	00	00	00							00
D. Net proceeds ...	0000	0000	0000							00
E. Fees, &c., under Bombay Act 8 of 1886 (Sale of Poisons) as assigned by the Collector	000	000	000							0000
F. Sand and Quarry Fees	000	000	000							0000
G. 1. Grants by Government under Section 1 (*b*) of Act 18 of 1883 or otherwise	000	000	000							0000
G. 2. Contributions by private persons	000	000	000						000	0000
H. Receipts by Local Boards in execution of the Act ...	000	000	000						000	0000
Total Receipts of the Fund (*i. e.* B + C + D, &c.) ...	00000	00000	00000						000	000000

* *This is the whole amount for the táluka, including the Municipal Districts and Cantonments.*

Forwarded to the President of the _____

Local Board of _____

the _____ of 18 .

(Signed) _____ Collector.

FORM No. 2.

(See Rule 10.)

DETAILS of CESS under the BOMBAY LOCAL FUNDS ACT, 1869, on Lands within MUNICIPAL DISTRICTS and CANTONMENTS.

Name of Municipality or Cantonment.	Net amount of Cess.			REMARKS.
	Rs.	a.	p.	

I certify, under Section 47 of the Bombay Local Boards Act, 1884, that the above details are, to the best of my information, correct.

Dated *of* 18 .

(Signed)

Collector.

FORM No. 4.

(*See Rule 13.*)

PART I.

THE LOCAL FUND.

District.

GENERAL BUDGET ESTIMATE

of_____Local Board of_____

For the year

18 -9 .

Approved by the said Board at their meeting of the_____of_____18
(and sanctioned by the District Local Board at their meeting of the_____of
_____18 .)

In preparing this Budget Estimate attention should be given to Section 57 of the Bombay Local Boards Act, 1884, and the following points:—

a. What is expected to be paid (under proper sanction) during the year should be provided for—not the liability falling due within the year.

b. For fixed charges the detail estimates should show the full amount of the sanctioned scale; where it is found by experience that a saving will arise from any cause a lump deduction may be made.

c. The number of employés should be carefully stated in the detail estimates and checked; the rate of pay should be stated whenever possible, in order to admit of verification with the column of charge.

d. In the case of every item of fluctuating charge, such as travelling allowance, contingencies and the like, the actual expenditure of each of the three years last past should be noted for the purpose of comparison.

e. For proposed outlay on works, whether original works or repairs, no entry may be made in the budget unless the provisions of Section 57 (*b*) have been complied with.

BUDGET ESTIMATE of the _____ LOCAL BOARD of

REVENUE AND RECEIPTS.	Budget Estimate, 18 -9 .	Revised Estimate, 18 -9 .	Actuals, 18 -9 .	Estimate of 18 -9 compared with 18 -9 .	
				Increase.	Decrease.
Balance from the previous year ...					
Revenue under Section 44 of Act ...					
(*b*)					
Net Proceeds of Cess on Land ...					
(*c*)					
Net Proceeds of Public Ferries ...					
(*d*)					
Net Proceeds of Tolls on Roads and Bridges					
(*e*)					
Net Proceeds of Fees, Fines and Penalties levied under Bombay Act VIII of 1866.					
(*f*)					
Fees for permission to remove Sand or to quarry					
(*g*)					
Contributions:—					
(1). By Government under Cattle-trespass Act					
(2). Other Government Contributions:—					
Grants to Dispensaries					
Grants to Schools					
Grants to School Buildings ...					
Grants to Schools of Industry ...					
Grant from Ferry Collections of another District (Section 44 *g*) ...					
Contributions in lieu of one-anna cess on Excise Revenue					
Mudghat Unchanta allowance (Poona and Sátára)					
(3). From Private Persons ... { General ... / Educational ... }					
(4). From other Local Funds . { General ... / Educational ... }					
From Municipalities ... { General ... / Educational ... }					
Carried over ... Rs.					

_____ for the year _____ 18 -9 .

EXPENDITURE.	Budget Estimate, 18 -9 .	Revised Estimate, 18 -9 .	Actuals, 18 -9 .	Estimate of 18 -9 compared with 18 -9 .	
				Increase.	Decrease.
Expenditure under Section 30.					
(*a.*) COMMUNICATIONS—					
Original Works					
Repairs					
(*b.*) PUBLIC BUILDINGS (OTHER THAN EDUCATIONAL)—					
Original Works					
Repairs					
Maintenance Charges					
(1) *Hospitals and Dispensaries*—					
Establishments					
Medicines					
Contingencies					
Grants-in-aid					
(2) *Staging Bungalows*—					
Establishments					
Contingencies					
(3) *Dharmshálas*—					
Establishments					
Contingencies					
Other Charges					
(*c.*) WATER SUPPLY AND WATER WORKS—					
Original Works					
Repairs					
Maintenance Charges					
Carried over...Rs.					

BUDGET ESTIMATE of the _____ LOCAL BOARD of

REVENUE AND RECEIPTS.	Budget Estimate, 18 -9 .	Revised Estimate, 18 -9 .	Actuals, 18 -9 .	Estimate of 18 -9 compared with 18 -9 .	
				Increase.	Decrease.
Brought forward.....Rs.					
h.					
Receipts by Local Boards not included in (*a*) to (*g*), viz.:—					
Exhibitions and Fairs					
Hire of Stallions					
Medical Receipts					
Interest on Endowments, &c. ...					
Staging Bungalow Receipts ...					
Educational Receipts, viz.:—					
Fees from Local Board Schools ...					
Other Educational Receipts ...					
Sundry Receipts, viz.:—					
Sales of Buildings					
Sales of Produce					
Sales of Tools and Plant... ...					
Sales of old Materials					
Rent of Land					
Rent of Buildings					
Fines					
Refunds					
Carried over...Rs.					

for the year 18 -9 —*continued.*

EXPENDITURE.	Budget Estimate, 18 -9.	Revised Estimate, 18 -9.	Actuals, 18 -9.	Estimate of 18 -9 compared with 18 - 9.	
				Increase.	Decrease.
Brought forward ...Rs.					
(*d*).—PRIMARY EDUCATION, viz. :—					
Schools—					
Head Masters and Teachers ...					
Clerks					
Servants					
Travelling Allowances... ...					
Rent					
Cost of Books					
School Furniture					
Contingencies and Miscellaneous ...					
Prizes					
Technical Schools—School of Arts and Industry—					
Establishment					
Contingencies					
Stipends of Students under training as Vernacular Teachers ...					
Grants-in-Aid—					
Grants to Private Schools ...					
Original Works					
Repairs					
(*e*.) PUBLIC VACCINATION AND SANITARY WORKS—					
Vaccination Charges, viz. :—					
Establishment					
Fixed Bhatta					
Contingencies					
Original Works					
Repairs					
Other Charges					
(*f*.) PLANTING AND PRESERVATION OF ROAD-SIDE TREES—					
Establishments					
Contingencies					
(*g*.) MAINTENANCE OF ANY PROPERTY VESTED IN THE BOARD, viz. :—					
(*h*.) AGRICULTURE, CATTLE-BREEDING, &c.					
Stallion Charges					
Grants to Gardens					
(*i*.) RELIEF WORKS—					
Original Works					
Repairs					
Other Charges					
(*j*) EDUCATIONAL OBJECTS NOT INCLUDED UNDER (*d*)—					
Original Works					
Repairs					
Other Charges					
Carried over ...Rs.					

BUDGET ESTIMATE of the _____ LOCAL BOARDS of

REVENUE AND RECEIPTS.	Budget Estimate, 18 -9 .	Revised Estimate 18 -9 .	Actuals, 18 -9 .	Estimate of 18 -9 compared with 18 -9 .	
				Increase.	Decrease.
Brought forward ...Rs.					
Incorporated Local Fund Debt accounts, viz. :—					
Advances					
Total ...Rs.					

for the year 18 -9 —*continued.*

EXPENDITURE.	Budget Estimate, 18 -9.	Revised Estimate, 18 -9.	Actuals, 18 -9.	Estimate of 18 -9 compared with 18 -9.	
				Increase.	Decrease.
Brought forward ...					
(*k*). MISCELLANEOUS PUBLIC IMPROVEMENTS—					
Original Works					
Repairs					
Grants to Exhibitions and Fairs ...					
Other Charges					
Amount expended by District Board under Section 46—					
(*a*) SALARIES OF EMPLOYE'S UNDER SECTION 38—					
Establishments (exclusive of Government establishments contracted for under Section 61, para. 3) .					
(*b*) EXPENSES OF AUDIT—					
Establishment in Accountant General's Office					
(*c*) GOVERNMENT LOCAL FUND CHARGES, viz. :—					
Establishment in Commissioner's Office.					
Establishment in Collector's Office .					
Amount assigned to Municipalities and Cantonment Committees under Section 47.					
Miscellaneous.					
Contributions to Provincial Funds .					
Repayment of Loans					
Interest on loans					
Printing Charges					
Contingencies					
(1) for Public Works ...					
(2) Other purposes ...					
Tools and Plant					
Incorporated Local Fund Debt accounts, viz. :—					
Advances					
Balance on 31st March					
Total ...Rs.					

PART II.

ABSTRACT of the ESTIMATED EXPENDITURE on PUBLIC WORKS for the year from 1st April to 31st March.

Classification.	Estimate for	Remarks.
ORIGINAL WORKS.		
Communications		
Public Buildings (other than Educational) ...		
Water-works		
Primary Education		
Sanitary		
Relief Works		
Extra Educational Works		
Miscellaneous Public Improvements		
Total Original Works ...		
REPAIRS.		
Communications		
Public Buildings		
Water-works		
Primary Education		
Sanitary		
Relief Works		
Extra Educational Works		
Miscellaneous Public Improvements		
Total Repairs ...		
Tools and Plant		
Establishment		
Contingencies		

President,_____Local Board.

PART III.

PART III.

DETAIL of the BUDGET ESTIMATE for Original Works in the _____ District (or Táluka) for 18 -9.

Head of Classification.	Táluka.	Locality.	Item No.	Project or Work.	Amount of Estimate.	Outlay.		Grant 18 -9.		Item No.	Remarks and References.
						Actual to end of 18 -9.	Probable during 18 -9.	Amount.	Total.		
				The name of each original work for which special provision is made in the budget-estimate should be separately entered here under the classification prescribed in Part II.							(1). *If the work is to be executed by the Government Executive Engineer, that fact should be noted in this column by writing the words "by Government Executive Engineer."*
				The lump sum, if any, provided for minor and unforeseen works should also be separately shown under each head of the said classification.							(2). *If the total cost of the work is to exceed Rs. 500 or, in the case of a road, Rs. 50 per mile, it should be stated in this column that the plan and estimate for the work have been prepared or approved by the Government Executive Engineer.*
				Under each work which is to be executed by the Government Executive Engineer wholly or partly with the aid of Government establishment, the provision made, with reference to para. 3 of Section 61 of the Act for the charge payable to Government for such establishment shall be entered separately below the estimate for the work.							(3). *For every work herein entered a detailed estimate of the cost of such work, which has been approved by the Board, must be attached to this budget-estimate; and the date and No. (if any) of the Board's order of approval should be quoted in this column.*

President, _____ Local Board.

PART IV.

DETAIL of the BUDGET ESTIMATE for Repairs in the _____ District (or Táluka) for 18 9- .

Items.	Estimate, 18 -9 .		Estimate 18 -9 .		REMARKS.
	Amount.	Total.	Amount.	Total.	
	Rs.	Rs.	Rs.	Rs.	
COMMUNICATIONS.					
Road from to ...	500				(1.) *If the repair is to be executed by the Government Executive Engineer, that fact should be noted in this column by writing the words "by the Government Executive Engineer."*
Do. do. ...	375				
&c. &c. ...		5,000			
PUBLIC BUILDINGS (OTHER THAN EDUCATIONAL).					
Hospital at	700				(2.) *If the total cost of the repair is to exceed Rs. 500 or, in the case of a road, Rs. 50 per mile, it should be stated in this column that the plan and estimate for the work have been prepared or approved by the Government Executive Engineer.*
Staging Bungalow at ...	200				
&c. &c.		2,100			(3). *For every repair herein entered, a detailed estimate of the cost of such repair which has been approved by the Board must be attached to this budget estimate; and the date and No. (if any) of the Board's order of approval) should be quoted in this column.*
(1.) *Every proposed repair should be entered here under the classification prescribed in Part II. Provision may also be made for unforeseen petty repairs in a lump sum* ...					
(2.) *Under each repair which is to be executed by the Government Executive Engineer wholly or partly with the aid of Government establishment, the provision made, with reference to para. 3 of Section 61 of the Act for the charge payable to Government for such establishment shall be entered separately below the estimate for the work.*					

President, _____ Local Board.

FORM No. 5.

(*See Rules 22 and 23.*)

STATEMENT of RE-APPROPRIATIONS and ALLOTMENTS approved by the LOCAL BOARD of _____ (and sanctioned by the DISTRICT LOCAL BOARD _____) during the month of _____ 18 .

Consecutive No.*	FROM			TO			Amount — Rs.	REMARKS.
	Main-head.	Budget Item.	Work, Service, &c.	Main-head.	Sub-head.	Work, Service, &c.		
								If the re-appropriation or allotment is for a work to be executed by the Government Executive Engineer, that fact should be noted in this column by writing the words "by the Government Executive Engineer".

* The Appropriations and Allotments should be numbered consecutively throughout the official year.

No._____

_____

_____

*Dated*_____18 .

MEMO.

The undersigned has the honour to forward STATEMENT of RE-APPROPRIATIONS and ALLOTMENTS for the month of_____18 .

(Signed)

President,_____Local Board of

To

The Collector,

DISTRICT.

FORM No. 6.

(See Rule 40.)

IMPREST CASH ACCOUNT of *A. B.*, employed as _____ by the _____ LOCAL BOARD of _____

Day of Month.	Transactions.	No. of Voucher.	Amount of each Disbursement.	Total.

[To be inserted below No. 21 of the Rules made under Section 41 of the Indian Forest Act, VII of 1878 (as amended by the Forest Act, V of 1890), and published at page 131 of the Compilation of General Rules in force in the Revenue Department.]

"EXPLANATION—This rule does not apply to trees when standing or growing within such limits, but only to 'timber' as defined in the Act. When trees belonging to a private owner within such limits have either fallen or been felled, permission should not be deemed to be required under this rule—

(*a*) for lopping merely the boughs of such trees for the purpose of facilitating the removal of the uncut timber, or

(*b*) for cutting and burning the boughs of such trees for *rab* or *kumri* cultivation."

[Notn. No. 2206, *Bombay Government Gazette*, 1899, Part I, page 406.]

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expenditure has been incurred.	Number and date of Local Board's order of approval.	Amount.	Previously.	advance was last recouped.	Total.	REMARKS.

[To be substituted for the final paragraph of Appendix A to the Rules under the Sind Encumbered Estates Act, XX of 1896, substituted for those published at pages 539 to 542 of the Compilation of General Rules in force in the Revenue Department.]

[S. O. G., 1899, page 683.]

"Every claimant is hereby required, when notifying his claim, to present along with the notification, full particulars of his claim, and to produce at the same time, or cause to be produced, every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation and boundaries."

No. _____ (*See Rule 42, cl. 4.*)

CLAIM against the _____ LOCAL BOARD of _____ for work done by contract.

Name* _____

No. and Date of Order for Contractor to undertake the Works.	Name of Work or Contractors.	Nos. and amounts of Estimates.	DETAILS OF WORKS.		Items in Schedule	Rate.	Per	Amount.	Total of each Work.	Payments made.	Receipt for final payment in settlement of all demand.
			Quantities.	Description.							

Certified that the above Claim is correct, that the measurements have been made by the Contractor and by _____ on behalf of the Board, and that the work has been satisfactorily performed.

Contractor. { } (Signed)

Officer† or servant who took the measurements.

(Countersigned)

Chairman of the Works Committee.

* Of Contractor for either one or several petty works, or of work, when carried out by several petty Contractors.

† Notification No. 1781, *B. G. G.*, 1885, Pt. I., p. 283.

from the _____ to _____ 18 .

ate.	Per.	Amount.	Deductions of Fines, &c.	Balance due.	Signature in acquittance.

FORM No. 9.

No. _____ *(See Rule 42, cl. 5.)*

BILL for MATERIALS purchased for Works executed by the _____ LOCAL BOARD of _____ in the _____ during the month of _____ 18 .

Names of Dealers and Materials purchased from them.	Quantity.	Rate.	Per	Amount.	Total of each Dealer.	Total each Work.	Works for which purchased.	Date of payment.	Signature of Recepients.

Certified that the above claims are correct and that the materials have been received.

(Signed)

Officer* or servant who took the measurements.

(Countersigned)

Chairman of the Works Committee.

* Notification No. 1781, *B. G. G.*, 1885, Pt. I., p. 283.

FORM No. 10.

(See Rule 43.)

_____ LOCAL BOARD OF _____

COMPLETION CERTIFICATE of the undermentioned work :—

No.	Classification and Name of Work.	Actual Cost.	Estimated Cost.	REMARKS.

Certified that the above work has been completed to my (our) satisfaction.

Dated the *of* *18* .

(Signed)

FORM No. 11.

(See Rule 43.)

_____ LOCAL BOARD OF _____

COMPLETION CERTIFICATE of the WORKS and REPAIRS estimated to cost not more than Rs. 500 each or, in the case of roads, not more than Rs. 50 per mile, completed during the month of _____ 18 .

No.	Classification and Name of Work.	Actual Cost.	Estimated Cost.	REMARKS.

We hereby certify that we have satisfied ourselves that the above works have been satisfactorily completed.

Dated the *of* *18* .

_____

_____ } Members, Works Committee.

FORM No. 12.

(*See Rule 46.*)

FORM of CHEQUE with COUNTERFOIL to be used by LOCAL BOARDS.

Cheque-book No.

Cheque No.

_____ *18* .

_____ Treasury.

Pay _____

On account of _____

Rs. _____

Credit Govt. on account of _____

_____

Rs. _____

Total Rs. [redacted]

Cheque-book No. Cheque No.

The Local Fund, _____ District.

_____, *the* *of* *18* .

To

THE OFFICER in charge of the Treasury at _____

Please pay to _____ or order

Rupees _____

and credit Government with Rupees _____

_____ as detailed on the reverse, and debit the amount against the Local Fund.

Pay Rs. _____

Credit Government Rs.

Total Rs. [redacted] Accountant.

President, Member, } Local Board of ____

FORM No. 13.

(*See Rule* 49.)

ABSTRACT STATEMENT of the ACCOUNTS of the_____LOCAL BOARD of_____
for the Year 18 -9 .

REVENUE AND RECEIPTS.

Particulars.	Amount. Rs.	a.	p.
Balance from previous year...			
RECEIPTS.			
Amount received under Section 44, viz :—			
(*b*) Net Proceeds of Local Fund Cess on Land, &c.			
(*c*) Net Proceeds of Public Ferries established under Bombay Ferries Act, 1868 ...			
(*d*) Net Proceeds of Tolls on Roads and Bridges, &c.			
(*e*) Net Proceeds of Fees, Fines and Penalties levied under Bombay Act VIII of 1866.			
(*f*) Fees for permission to remove Sand or to quarry			
(*g*) Contributions, viz :—			
(1) By Government under Cattle Trespass Act			
(2) Other Government Contributions			
(3) Private Contributions			
(*h*) Receipts not included in (*a*) to (*g*), viz. :—			
Total Revenue ...			
Advance and other Debt Accounts ...			
Total Receipts ...			
Grand Total ...			

EXPENDITURE.

Particulars.	Amount. Rs.	a.	p.
AMOUNT EXPENDED UNDER SECTION 30.			
(*a*) Communications—			
Original Works			
Repairs			
(*b*) Public Buildings (other than Educational)—			
Original Works			
Repairs			
Other Charges			
(*c*) Water Works and Water-supply—			
Original Works			
Repairs			
Other Charges			
(*d*) Primary Education—			
Schools			
Special or Technical Schools			
Scholarships			
Prizes...			
Grants-in-aid			
Original Works			
Repairs			
(*e*) Sanitary Works—			
Vaccination Charges			
Original Works			
Repairs			
(*f*) Planting and Preservation of Trees			
(*g*) Maintenance of property			
(*h*) Agriculture, Cattle-Breeding, &c.			
(*i*) Relief Works—			
Original Works			
Repairs			
Direct Relief			
(*j*) Extra Educational Works (*d*)			
(*k*) Miscellaneous Public Improvements—			
Original Works			
Repairs			
Total under Section 30 ...			
AMOUNT EXPENDED BY DISTRICT BOARDS UNDER SECTION 46.			
(*a*) Salaries, &c., of employés under Section 38			
(*b*) Expenses of Audit			
(*c*) Government Local Fund Charges			
AMOUNT PAID TO MUNICIPALITIES AND CANTONMENT COMMITTEES UNDER SECTION 47. ...			
Total Expenditure under the Act ...			
MISCELLANEOUS—			
Repayment of Loans			
Interest on Loans...			
Printing Charges			
Contingencies			
Tools and Plant			
Advances and other Debt Accounts			
Total Expenditure ...			
Closing Balance			
Grand Total ...			

SCHEDULE of WORKS executed by the GOVERNMENT EXECUTIVE ENGINEER.

Nature of Work.	Estimated Cost of each work.	Expended in year 18 -9 .	Expended to end of 18 -9 .	REMARKS.
Section 30 (*a*) ...				
Do. (*b*) ...				
Do. (*c*) ...				
Do. (*d*) ...				
Do. (*e*) ...				
Do. (*g*) ...				
Do. (*i*) ...				
Do. (*k*) ...				
Total...				

FORM No. 14.

(*See Rule 51.*)

CASH ACCOUNT

of the

LOCAL FUND OF THE _____ DISTRICT

FOR _____ 18 .

MEMORANDUM of BALANCES, viz:—

Name of Board.	Opening Balances.			Receipts.			Total.			Payments.			Closing Balances.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
District Local Board, General.															
District Local Board, Educational															
Táluka Local Board of _____ &c....															
Debt Accounts															
Total...															

Dr.

CASH ACCOUNT of the LOCAL FUND of the _____ DISTRICT for the Month of _____ 18 .

Cr.

Particulars.	Amount. Rs.	a.	p.	Particulars.	Amount. Rs.	a.	p.
To Revenue as per Summary annexed				By Expenditure as per Summary annexed			
To Advances recovered, viz :—				By Advances made, viz. :—			
Total Receipts* ...				Total Expenditure* ...			
Opening Balance				Closing Balance			
Grand Total ...				Grand Total ... ... Rupees.			

* Revenue advised by Collector ... Rs.
Receipts by Local Board ... "

Total †

† To be agreed with Treasury debit before the account is passed on by Treasury Officer.

* Cheques drawn on the Huzúr and Sub-Treasuries as per Schedule annexed... ... ... Rs.
Educational Bills paid... ... ... "

Total †

† To be agreed with Treasury debit before the account is passed on by Treasury Officer.

SUMMARY of REVENUE of the LOCAL FUND of the _____ DISTRICT during the Month of _____ 18 .

No. in Cash Book of		Items.	DISTRICT BOARD.						Táluka Board of *			District Total.		
			General.			Educational.								
Item.	Voucher.		Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
		Revenue under Section 44, viz. :—												
		(*b*) Net Proceeds of Cess on Land as advised by the Collector												
		Add to "District" and deduct from Táluka Boards as per annexed memo. as follows, viz. :—												
		1. Amount assigned to Municipalities and Cantonment Committees under Section 47												
		2. Amount retained for educational purposes under Section 48 ...												
		3. Amount retained for expenditure to be undertaken by the District Board under— Section 46—General Charges . Do. 49—Through Communications, &c. ...												
		Total addition to District and deduction from Táluka Boards												
		Balance of (*b*) at disposal of each Board.												
		(*c*) Net Proceeds of Public Ferries as advised by Collector												
		(*d*) Net Proceeds of Tolls on Roads and Bridges as advised by Collector ...												
		(*e*) Net Proceeds of Fees, Fines and Penalties levied under Bombay Act VIII of 1866 as advised by Collector ...												
		(*f*) Fees for permission to remove sand and to quarry as advised by Collector ...												
		(*g*) Contributions— 1. By Government under Cattle Trespass Act as per Voucher No. of Treasury lists of Payments. 2. Other Government Contributions as per following Vouchers of Treasury lists of Payments, viz. :— 3. Private Contributions, viz :—												
		(*h*) All sums received by Local Boards other than (*a*) to (*g*), viz. :—												
		Grand Total of Revenue ...												

*A separate column for each Táluka Board.

SUMMARY of EXPENDITURE of the LOCAL FUND of the _____ DISTRICT for the Month of _____ 18 .

No. in Cash Book of		Items.	DISTRICT BOARD.						Táluka Board of *			District Total.		
			General.			Educational.								
Items.	Voucher.		Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
		Expended under Section 30 :—												
		By Government Executive Engineer as per Progress Report annexed ...												
		By Local Boards, viz. :—												
		(*a*) Communications, viz. :—												
		(*b*.) Public Buildings (other than Educational)												
		and so on, *vide* Budget form ...												

*A separate column for each Táluka Board.

(Notification No. 8416, Pt. I.-A., p. 104, *B. G. G.*, 1886.)

(*Vide* also G. N. 4929, S. O. G., 1886, July to December, Pt. I.-A., pp. 47 and 48.)

FORM No. 15.

(*See Rule 51.*)

Abstract of Expenditure on account of works executed under the orders of the Local Boards in the District, otherwise than by the Government Executive Engineer, during the month of 18 .

(*To accompany the monthly Local Fund Cash Account sent to the Accountant General.*)

Local Board for which executed.	Name of Work or object on which Expenditure has been incurred.	BUDGET ESTIMATE.		GROSS SUM EXPENDED.					Voucher No.	Remarks.
		Number and date of Local Board's order of approval.	Amount.	During previous months.	Current month.			Progressive Total.		
					Labour.	Materials.	Total.			
										[NOTE.—*When any work is completed a note to that effect should be made in this column.*]

I hereby certify that the above is a true abstract of the expenditure disbursed from the treasury during the aforesaid month, and that I have duly received vouchers in support thereof prepared in accordance with Rule 42

All vouchers for the purchase of materials for sums of Rs. 50 and upwards are hereto attached. Those for labour and for purchase of materials for sums of less than Rs. 50 have been recorded in the Local Fund Branch of this office.

Treasury Officer.

No. II.

All public primary schools to be maintained by local boards, and to be called "local board schools."

1. Every public primary school now existing or hereafter to be established by local boards within the area subject to a district local board's authority shall be maintained by the said board with the assistance of the grants-in-aid obtainable, under rules from time to time framed by Government, from the provincial revenues.

Every such school shall be called "a local board school."

Current charges of primary education to be defrayed by district local boards.

2. Each district local board shall defray the charges, at the rates from time to time sanctioned by Government in the Educational Department, for the payment of:

(1) the salaries and allowances of teachers employed in local board schools in the area subject to the board's authority;

(2) The establishment, if any, maintained in such schools;

(3) The stipends of teachers under training in institutions established for this purpose by Government, for employment in such schools;

(4) grants-in-aid, under rules from time to time sanctioned by Government, to private schools, whenever it may be determined, in accordance with the said rules, to aid primary schools of that class.

School-buildings, with furniture, &c., to be provided at cost of district local boards.

3. The cost of providing, wherever necessary within the area subject to their respective authority, new buildings, whether by purchase, erection or hire, for the suitable accommodation of local board schools and of repairing the existing school buildings and of supplying and maintaining in serviceable condition the requisite furniture, books and other apparatus of the said schools shall also be a charge upon district boards.

Powers of Táluka local boards in educational matters.

4. Each táluka local board shall have the power, within the area subject to its authority:

(1) of determining the places at which new local board schools shall be opened and the manner in which accommodation therefor shall be provided;

(2) of deciding upon the transfer or abolition of existing local board schools;

(3) of fixing the class of each such school with reference to its cost, the selection being from classes recognized by the Government Educational Department;

(4) of prescribing the standard of teaching in each such school, the selection being from

standards recognized by the Government Educational Department;

(5) of fixing, subject to such limitations as may from time to time be prescribed by Government in the Educational Department, the rate of monthly admission and re-admission fees to be paid by pupils in each such school, whether the children of cess-payers or non-cess-payers;

(6) of fixing, subject as aforesaid, the number of free scholars to be admitted to each such school.

Nothing in this order shall be deemed to affect the authority of the district and táluka local boards, respectively, under section 48 of the Act, with regard to expenditure.

Power of district local boards in educational matters.

5. Authority for establishing or supporting educational objects falling under section 30 (*j*) of the Act shall vest in the district local board alone: Provided that such authority shall not be exercised except with the previous approval of Government, to be obtained through the Director of Public Instruction.

Visiting of local board schools.

6. District and táluka local boards shall make such arrangements as they think fit for the periodical visiting by members or by committees appointed by them, respectively, for this purpose, of every local board school in the area subject to their respective authority.

Administration of local board schools to rest with the Government Educational Department.

7. The administration of local board schools as regards teaching and discipline, the appointment, punishment and dismissal of the masters, the fixing and payment of the masters' salaries, allowances and pension-contributions, and the grant of leave of absence to the masters, shall be conducted by the Government Educational Department.

Grants-in-aid from local fund to private schools to be fixed according to rules prescribed by Government.

8. The amount of the grant-in-aid to be given to a private school which a local board determines to assist, in lieu of establishing a local board school, shall be fixed by the Government Educational Department according to the rules from time to time prescribed by Government in this behalf.

Local board schools to be inspected and examined by the Government Educational Department and other district officers.

9. Local board schools will be subject to periodical inspection and examination by officers of the Government Educational Department and by other district officers whom Government from time to time think fit to entrust with this duty.

Every member of the district or táluka local board within whose local limits the school is situate shall

be entitled to be present at any such inspection or examination.

Copies of school-inspection reports to be furnished to táluka local boards.

10. A copy of every school inspection report made by the Government Deputy Inspector shall be forwarded by him to the táluka local board within whose local limits the school is situate.

Complaints, &c., of local boards regarding local board schools how to be dealt with.

11. Any complaint, observation or suggestion which on the recommendation of any one or more of its members, or with reference to the Government Deputy Inspector's inspection report, any local board shall think fit to make regarding the management or discipline of any local board school within the area subject to such local board's authority, shall be addressed by it, in writing, to the Government Educational Inspector, and, if it emanates from a táluka local board, shall be forwarded through the district local board, which may record its opinion thereon.

The Government Educational Inspector shall, to the best of his ability, give effect to the views of the local boards or of the district local board, if there is a difference of opinion between the two boards. If the district local board is dissatisfied with the Educational Inspector's decision, it may represent the matter, through the Director of Public Instruction, to Government.

Copy of Government Deputy Inspector's annual report on local board schools to be furnished to district local board.

12. The annual report of the Government Deputy Inspector on the local board schools of a district shall briefly discuss all points raised by the local boards or by district officers during the working season.

A copy of the report shall be sent to the district local board not later than the 1st of May. Any remarks which the said board may think fit to communicate thereupon should be forwarded through the Collector so as to reach the Director of Public Instruction not later than the 1st June, and a copy of the remarks should be forwarded to the Government Educational Inspector.

Plans and estimates of school-buildings to be approved by the Government Educational Department.

13. No school-building or extension of a school-building shall be constructed by a district local board unless the plan and estimate for the same have been approved by the Government Educational Inspector, if the cost of the work is not to exceed Rs. 1,000, or by the Director of Public Instruction in any other case.

Sites for school-buildings to be determined with the approval of the Government Educational Inspector.

14. Before commencing to erect a building for the accommodation of a local board school the site for the same must be approved by the Government Educational Inspector.

In the event of a difference of opinion between a local board and the Government Educational Inspector as to the suitableness of a proposed site, the question shall be referred, through the Director of Public Instruction, for the decision of Government.

Government Deputy Educational Inspectors to represent educational wants to táluka local boards.

15. Every Government Deputy Educational Inspector shall bring to the notice of each táluka local board in his subdivison from time to time, in writing, the educational wants of the area subject to such board's authority, and the said boards shall take the same into their consideration at meetings at which the Deputy Educational Inspector has an opportunity of being present.

Government Deputy Educational Inspector to forward lists of educational objects to Educational Inspector for his use when the district local board frames the budget.

16. Lists of the objects of expenditure placed before táluka local boards by the Government Deputy Educational Inspector shall be forwarded by him to the Government Educational Inspector, together with explanations of the results of their discussion by the táluka local boards, and his own opinion thereon; and the Government Educational Inspector shall include such of the said objects as he thinks fit in the proposals which he shall submit to the district local board when the educational budget estimate is under consideration.

Táluka local boards to submit recommendations to the district local board for framing the educational budget.

17. Each táluka local board shall submit to the district local board a list of the objects for which they recommend that provision be made in the educational budget-estimate.

ELECTIONS OF MEMBERS.

In exercise of the power conferred by section 69 (*b*) of the Bombay Local Boards Act, 1884, the Governor in Council is pleased to make the following rules for regulating, throughout the Presidency, except in Sind* and the Panch Maháls District, elections of members of local boards other than elections under sections 6 (*c*) and 7 (*c*) of the said Act (namely) :—

I.—Elections by Municipalities.

1. When the date for any election by municipal commissioners under section 6 (*a*) or 7 (*b*) of the Act has been fixed by the Collector under section 16, a special general meeting of the commissioners shall be called for the date so fixed, in the manner and by the authority prescribed in the municipal law or rules for the convening of such meetings, for the purpose of holding the said election.

2. The meeting shall be held in the place in which the commissioners usually meet for the transaction of business and the election shall be held in the same manner in which any proposition or business legally brought before a special general meeting of the municipality is usually considered and voted upon by the municipality, and the names of the commissioners voting respectively for and against each candidate shall be recorded in the municipality's minute-book.

3. The result of the election shall be declared by the chairman of the meeting, and shall be communicated by him without delay in writing, under his signature, to the Collector for publication in the *Bombay Government Gazette*.

II.—Group Elections.

4. Every election of members of táluka local boards under section 6 (*b*) of the Act shall be held in such village situate within the group for which the election is to be made in such place and during such hours as the Collector shall determine.

A written notice of the date fixed for the election under section 16 of the Act and of the village and place in which, and of the hours during which, it is to be held, shall be posted up at least twenty-one days before the date so fixed, in some conspicuous spot in the office of the Mámlatdár or Mahálkari of the táluka or mahál in which, and in the chávdi or some other

*In Sind the Rules are the same with the exceptions and alterations noted below—*Vide* S. O. G., July to December, 1884, Pt. I., pp. 104-105.:—

In Rule 3 for the words "in the *B. G. G.*" there is substituted "the S. O. G."

Rule 4, paragraph 2, for the words "Mámlatdár or Mahálkari of the táluka or mahál" there is substituted "Muktiárkar of the táluka" in it.

After the word "building" insert the word "place."

public building in every village of the group for which, the election is to be held, and shall be published in at least one daily or weekly vernacular newspaper, if any, published in the district.

The Collector may also cause notice of the election to be published in any other manner that he may deem fit.

* 5. Every person who† desires or is willing to be elected for any group of villages must be nominated in writing for this purpose by two persons whose names are in the revised List No. II last published, and this nomination-paper must bear an endorsement signed by the nominee signifying his willingness to serve if he should be elected, and be delivered to the Mámlatdár or Mahálkari of the táluka or mahál in which the election is to be held at least fourteen days before the date fixed for the election.

The Mámlatdár or Mahálkari shall, if any nomination-paper is prepared and delivered to him in conformity with this rule and if the nominee's name is in the revised List No. I last published, include the nominee's name in a List of Candidates which shall be prepared under his signature and posted up at least ten days before the date of the election, in some conspicuous spot in his office and at the place where the election is to be held.

When elections for two or more groups of villages are to be held at or about the same time, one and the same person may be nominated as a candidate for election for each such group.

6. A polling officer shall be appointed by the Collector to preside at each election and receive votes thereat.

The village accountant‡ of each village in the group for which an election is held shall, unless prevented by sickness or other reasonable cause, be present at the election, from the beginning to the end thereof, and render the polling officer such assistance as he may require in conducting it.

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* Rule 5 of the rules as published under Government Notification No. 2375, dated 10th July 1884, is rescinded.

† For No. 5 the following is substituted in the Sind Rules:—

"Every person who wishes to offer himself for election for any group of villages shall, at least fourteen days before the date fixed for the election, inform the Mukhtyárkar of the táluka in which the election is to be held of his wish by letter under his signature. The Mukhtyárkar shall, if such person's name is in the revised List No. I last published, include such person's name in a List of Candidates which shall be prepared under his signature and posted up at least ten days before the date of the election, in some conspicuous spot in his office and at the place where the election is to be held.

"When elections for two or more groups of villages are to be held at or about the same time, one and the same person may, if he thinks fit, become a candidate for election for each such group."

‡In Rule 6, para. 2, for "the village accountant" read in Sind "the Tapedár."

7. On the day of the election each intending voter shall, as he arrives at the place appointed for holding the election, receive a voting-paper in the following form* :—

Vote for a member of the Táluka Local Board of for the Group.

Name of candidate voted for.	Signature or mark of voter (or name of voter and signature or mark of proxy, *as the case may be*).	Address of voter.

8. Each voter may vote for one candidate only. A vote for any person whose name is not included in the List of Candidates published by the Mámlatdár or Mahálkari† under Rule 5 shall not be received.

‡9. Females may vote by proxy: provided that the proxy empowering any person to vote for a female is attested by the Patel of the village in which the voter resides and by two other residents of the same village whose names are included in the revised List No. II last published.

In every other case voters must vote in person.

10. If a voter or proxy is able to read and write, he shall fill up the voting-paper himself; otherwise§ the paper shall be filled up by the polling officer, in the presence of the assembled village accountants at the voter's or proxy's dictation, and the latter shall affix his mark thereto.

11. No vote shall be received by the polling officer from, or on behalf of, any person whose name is not in the revised List No. II last published.

12. The polling officer shall satisfy himself as to the identity of the persons tendering votes, and may refuse the vote of any person who declines

* Rule 7.—The form in Sind is :—

Vote for a Member of the Taluka Local Board of for the Group.

Name of candidate voted for.	Signature or mark of voter.	Address of voter.

† In Rule 8 for "Mámlatdár or Mahálkari" read in Sind "Muktiárkar."

‡ For Sind in place of Rule 9 the following is substituted :—
9. In every case the voters must vote in person.

§ In Rule 10 for all after the word "otherwise" read (in Sind "the paper may be filled up by one of the Tapedárs at the voter's dictation and the latter shall affix his mark thereto."

to answer any reasonable question put to him for this purpose or whose identity is not established to his satisfaction.

13. Each person whose vote is allowed by the polling officer shall drop his voting-paper into a box which has been previously sealed by the Mámlatdár or Mahálkari* with his official seal.

14. The polling officer shall keep:

(*a*) a record of the names of persons voting, whether in person or by proxy†;

(*b*) a record of the votes refused by him and of the reasons for his refusal in each case;

‡(*c*) a file of the proxies presented by persons voting on behalf of females.

15. As soon as the time prescribed under Rule 4 for the duration of the election has expired, the polling officer shall close the proceedings.

The two records kept by the polling officer under Rule 14 shall then be signed by him immediately below the last entry in each and countersigned by each of the village accountants§ present.

The polling officer shall, without delay, forward the sealed box containing the voting-papers and the two records aforesaid‖ and the file of proxies,‖ if any, securely fastened up, to the Mámlatdár or Mahálkari or other person nominated by the Collector in this behalf, together with a certificate in the following form signed by himself and by the village-accountants present, (viz.):—

"Certified that the election held this day of 18 at in our presence was conducted in accordance with the rules regulating such elections, and that the two records ¶and file of proxies¶ herewith sent are correct and complete, and that all the voting-papers tendered which have not been disallowed are contained in the box herewith sent, the seal on which is in tact and in good order.

(Signed)

Polling Officer.

{ Village Accountants** present."

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* Rule 13 "for Mámlatdár or Mahálkari" read in Sind "Muktiárkar."

† Rule 14 (*a*) the "words whether in person or by proxy" are omitted in the Sind Rules.

‡ Rule 14 (*c*) is omitted in the Sind Rules.

§ Rule 15, para. 2:—In Sind rules for the "village accountant" the word "Tapádar" is substituted.

‖ Rule 15, para. 3:—The Sind Rules omit the words "and the file of proxies" and substitute the word "Muktiárkar" for "Mámlatdár or Mahalkari" and substitute the word "Tapedár" for "village accountant."

¶ Omitted in the Sind Rules.

** In Sind Rules "Tapedár" is substituted for "village accountant."

16. The Mámlatdár or Mahálkari* or other person aforesaid shall, as soon as may be, scrutinise the votes and the polling officer's records and declare the result of the election, which he shall also communicate, without delay, in writing under his signature, to the Collector for publication in the *Bombay Government Gazette*.

17. In the event of any person being elected for two or more groups of villages such person shall be at liberty to choose the group which he will represent, and in every other group for which the said person has been returned the result of the election shall be determined as if no votes had been recorded for him.

III.—Elections by Táluka Local Boards.

18. When the Collector has fixed the date, under section 16 (*a*), for the election of one or more members of the district local board by a táluka local board or by a joint board under section 7 (*a*), he shall cause a written notice to be sent by post or otherwise as he shall think proper, to the address of each of the members of the said táluka local board or joint board informing him of the date fixed and prescribing the hour and place at which the members shall assemble for the purpose of the said election.

The said notices shall be issued by the Collector so that they should in the ordinary course be delivered not later than seven days before the date of the election.

19. The members of the táluka local or joint board present at the time and place prescribed in the said notices shall choose one of their number to be chairman for the occasion.

The meeting shall then proceed, under the presidency of the chairman so chosen, to elect from amongst the members of the táluka local board or joint board, the requisite number of members of the district local board.

20. Any member who desires or is willing to be elected must be proposed by one and seconded by another member other than himself present at such meeting, and the votes of the members present at the said meeting upon every such proposal shall be taken by the chairman.

The election shall be decided by a majority of votes of the members present at the meeting, the chairman having a second or casting vote in every case of an equality of votes.

21. The result of the election shall be declared by the chairman of the said meeting, and shall be communicated by him without delay in writing to the Collector for publication in the *Bombay Government Gazette*†.

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*Rule 16.—In Sind Rules the word "Muktiárkar" is substituted for "Mámlatdár or Mahalkari," and the words "Sind Official Gazette" for "*Bombay Government Gazette*."

†Rule 21.—In Sind Rules for the "*Bombay Government Gazette*" the words "Sind Official Gazette" are substituted.

22. The chairman shall also forward to the Collector, under his signature, minutes of the proceedings of the meeting, in which shall be recorded:

(*a*) the names of the members present:

(*b*) the names of the proposer and seconder of each proposal and of the member proposed:

(*c*) the names of the members voting, respectively, for and against each proposal.

PANCH MAHA'LS.

In exercise of the powers conferred by sections 4, 8, 13, 27 and 69 of the Bombay Local Boards Act, 1884, the Governor in Council is pleased to make the following orders regarding the establishment of Local Boards in the district of the Panch Mahâls (namely):— (Notn. No. 2154, *B. G. G.*, 1884, Pt. I., pp. 459 and 460.)

1. The members of the first local boards to be established under the Act in the said district shall commence their terms of office on such date as shall hereafter be notified by the Governor in Council.

2. There shall be one táluka local board for each of the three tálukas* of the said district as at present constituted under the Bombay Land Revenue Code, 1879.

*1. The Godhra Táluka.
2. The Dohad Táluka (inclusive of the Jhálod Mahál).
3. The Kálol Táluka (inclusive of the Hálol Mahál).

3. The Panch Mahâls district having been, as yet, only a few years under British administration and being behind other districts in social development, is not, in the opinion of the Governor in Council, sufficiently advanced for the introduction of the franchise in the manner and to the extent contemplated in sections 5, 6 and 7 of the Bombay Local Boards Act, 1884. It is therefore directed that the provisions of those sections and the subsequent provisions of the said Act which refer to those sections shall not apply to the local boards of the Panch Mahâls district and that, in lieu thereof, the constitution of the said boards shall be regulated by the following provisions:—

(1). The Táluka Local Board of Godhra shall consist of six members, as follows:—

1. The Assistant or Deputy Collector in charge of the Godhra Táluka, *ex-officio*;

2. The Mámlatdár of Godhra, *ex-officio*;

3, 4. Two members, being land-holders resident within the said táluka, whose holdings situate within the táluka are assessed (or, in the case of alienated lands, would be assessed if they were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

5. One member, being a resident of the Godhra Táluka and the holder of an entire alienated village in the said taluka, nominated by the Commissioner with the sanction of Government;

6. One member elected by the Municipal Commissioners of Godhra from amongst their own number.

(2). The Táluka Local Board of Dohad shall consist of seven members as follows:—

1. The Assistant or Deputy Collector in charge of the Dohád Táluka, *ex-officio*;

2. The Mámlatdár or Dohad, *ex-officio*;

3. The Mahálkari of Jhálod, *ex-officio*;

4. One member, being a land-holder resident within that portion of the Dohád Táluka which is not comprised within the Jhálod Mahál whose holding situate within the said portion of the said tálukas is assessed (or, in the case of alienated lands, would be assessed if it were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

5. One member, being a land-holder resident in the Jhálod Mahál, whose holding situate within the said Mahál is assessed (or, in the case of alienated lands, would be assessed if it were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

6. One member being a resident of the táluka of Dohad and the holder of an entire alienated village in the said táluka, nominated by the Commissioner with the sanction of Government;

7. One member, elected by the Municipal Commissioner of Dohad from amongst their own members:

(3). The Táluka Local Board of Kálol shall consist of six members as follows:

1. The Assistant or Deputy Collector in charge of Kálol Táluka, *ex-officio*;

2. The Mámlatdár of Kálol, *ex-officio*;

3. The Mahálkari of Hálol, *ex-officio*;

4. One member, being a land-holder resident within that portion of the Kálol Táluka which is not comprised within the Hálol Mahál whose holding situate within the said portion of the said táluka is assessed (or, in the case of alienated lands, would be assessed if it were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

5. One member, being a land-holder resident within the Hálol Mahál whose holding situate within the said Mahál is assessed (or, in the case of alienated lands, would be assessed if it were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

6. One member being a resident of the táluka of Kálol and the holder of an entire alienated village in the said táluka of Kálol, nominated by the Commissioner with the sanction of Government.

(4). The District Local Board of the Panch Mahals shall consist of ten members as follows:—

1. The Collector, *ex-officio*;

2. The Assistant Collector, *ex-officio*;

3. The District Deputy Collector, *ex-officio*;

4, 5. Two members, being land-holders resident within the Godhra Táluka, whose holdings situate within the said Táluka are assessed (or, in the case of alienated lands, would be assessed if they were not alienated) to the land revenue at not less than forty-eight rupees per annum, nominated by the Commissioner with the sanction of Government;

6, 7, 8, 9. Four members, being land-holders resident respectively within the Jhálod Mahál, the Hálol Mahál, that portion of the Dohad Táluka not comprised within the Jhálod Mahál and that portion of the Kálol Táluka not comprised within the Hálol

Mahál, whose holdings situate within the said maháls and portions of tálukas respectively are assessed (or, in the case of alienated lands, would be assessed if they were not alienated) to the land revenue at not less than forty-eight rupees per annum nominated by the Commissioner with the sanction of Government.

10. One member, being a resident of the district and the holder of an entire alienated village in the district, nominated by the Commissioner with the sanction of Government.

4. The Collector shall be the President of the District Local Board of the Panch Maháls and the Assistant or Deputy Collector in charge of the táluka shall be the President of the Táluka Local Boards of Godhra, Dohad and Kálol respectively.

ADDITIONAL ORDERS AND RULINGS.

Delegation of power of appointing all Nominated Members.

Section 5 (b).—His Excellency the Governor in Council is pleased to authorize the Commissioners of Divisions to appoint all nominated members of Local Boards in their respective Divisions. (G. R. No. 3613, dated 13th June 1887, R. D.)

Section 6 (a) and 7 (b).—A Municipal Commissioner elected under Section 6 (*a*) or 7 (*b*) of the Bombay Local Boards Act, 1884, to be a member of a Local Board does not become disqualified for the latter office on ceasing to be a Municipal Commissioner.

2. The Act does not prescribe it as a necessary qualification of the person who is the Local Board member of a Municipal district that he shall be a Municipal Commissioner of that district. It requires that one of the elective members of the Local Board shall be a member elected by the Municipal Commissioners of a municipal district from amongst their own number. At the time of his election this member must therefore be a Commissioner of the Municipality by which he is elected, but the Act nowhere provides that he shall be disqualified for the Local Board when he ceases to be a Municipal Commissioner. The person elected will be *ex hypothesi* a suitable and efficient representative of the municipal interests, and that is all that is required for the purposes of the Act. (G. R. No. 10188, 27th December 1884, R. D.)

Holders of entire Alienated Villages.

Section 6 (c) and 7 (c), meaning of.—The holder of half a village of which the other half has been confiscated cannot be regarded as the holder of an entire village. A Sharákati village is an entire alienated village under the definition of "alienated" in the Land Revenue Code. The case of Nival Dumala villages where the holders pay so many annas in the rupee to Government as settlement is the same as that of Sharákati villages. In a case in which the holder was invested with the management of the whole village and voluntarily resigned one-fourth of the lands in settlement of the claims of Government on the revenue, this act need not exclude him from the privileges of sections 6 (*c*) and 7 (*c*). In the case where a few pot inám numbers alienated before the grant of the village and not included in that grant have lapsed to Government and not to the inámdár, his position as holder of the village is not materially affected, and this fact need not exclude him from the privileges of sections 6 (*c*) and 7 (*c*). In applying these rulings some discretion may be exercised by the Collector. The main point is that the inámdár should be substantially the holder of the village as a whole.

2. It should be observed that even if the inámdár is held to be non-qualified under Sections 6 (*c*) and 7 (*c*), he will nevertheless enjoy the franchise under Section 10 (1) if he has a qualifying holding. (G. R. No. 7507, 20th September 1884, R. D.)

Memorandum from the Remembrancer of Legal Affairs :—*Section 16 (a).*—"The words used in section 16 (*a*) are 'as early as conveniently may be after the elections and appointments to the táluka local boards * * * are completed.' The intention of these words appears to be that the Collector should wait till all the elections, including fresh elections, if any such be ordered by the District Judge under section 25, are over, and then fix the date for the elections of the members of the district local board. Section 16 (*b*) permits the Collector to fix the date for the original elections of táluka local board members at any time within three months and compels him to fix it at some time not later than one month before the commencement of those members' term of office. The object of this provision appears to be to allow sufficient time for the elections of these members to be completed in the above sense before it is necessary to fix the date for the elections of members of the district local board.

"2. If, by some mischance, the election of one or more members of a táluka board should not be completed by the latest date which the Collector can reasonably fix for the election by that board of its member of the district local board, the members of the táluka local board whose election is complete might legally proceed to elect their nominee to the district local board notwithstanding the vacancy or vacancies in their board [*vide* Section 32 (*b*)]." (G. R. No. 1291, 7th April 1884, F. D.)

Orders under Section 17 of Act I of 1884.

"If one and the same person or one and the same co-parcenary holds two or more entire villages within the local area for which a member has to be elected, such person or the representative of such co-parcenary shall have but one vote.

"2. The person recorded in the Collector's revenue records as the holder of an alienated village shall be the person entitled to vote and qualified to be elected in respect of that holding, whether such person be the actual inámdár or a mortgagee in possession (*vide* Section 3 (5) of the Local Boards Act and Section 3 (11) of the Revenue Code) or, in the case of villages held for the support of religious or charitable institutions, the manager.

"3. If an alienated village is entered in the Collector's revenue records as held jointly, or in shares, by two or more persons or, indefinitely, as being held by a co-parcenary (as "Samast Brahman," etc.), the Collector shall select from amongst the persons whose names

are so recorded, or from amongst the co-sharers, as the case may be, one person who shall be the person entitled to vote and be qualified to be elected in respect of such holding.

Before making such selection the Collector shall take such means as he shall think fit for ascertaining the wishes of the persons whose names are recorded as aforesaid or of the co-sharers, as the case may be, but he shall not be bound to ascertain the wish of any one who is absent from the local area for which a member has to be elected or to await the receipt, beyond such period as he shall think reasonable, of an expression of the wish of any such person or co-sharer. If a majority of not less than $\frac{3}{5}$ths, the persons or co-sharers whose wishes are known to the Collector are in favour of one person or co-sharer, that person or co-sharer shall be selected by the Collector; otherwise he shall himself make choice of such person or co-sharer as shall appear to him by reason of education, intelligence or local report and influence fittest to represent the holders of the alienated village in question. The holders of half-villages are excluded by the terms of the Act. (G. R. No. 1521, dated 26th April 1884, F. D.)

Qualifications—Sections 10 (3) and 18 &c., (meaning of the word "Reside.")

Letter from the Remembrancer of Legal Affairs:—"To 'reside' means primarily to have a permanent abode. Ordinarily, therefore, there will not be much difficulty in determining whether a person resides in a certain place or within a certain local area, or not.

"2. But a person may be a new comer and then the question will arise whether he is to be deemed a resident or a temporary sojourner merely. The intention of the new comer is the test to apply in such a case. If he has taken up his abode with an *animus manendi*, i. e., with an intention of remaining, and not merely as a visitor, then he should be deemed to be a resident, however recent his arrival may be.

"3. But it is not necessary that a person should be always actually present at his place of abode in order that he may be deemed to reside there. Residence implies personal presence at some time or other, but as has been held under the law which regulates the borough-vote for members of Parliament in England (*Whs'tchom* vs. *Thomas*, 7 M. and G. 1) it may consist of 'actual occupation of a place of residence by the party himself or an occupation by his family or servants, there being an *animus revertendi* on his part.'

"4. Thus, as has been held in another English case (*Balcot* vs. *Botfield Kay*, 534), 'a person may be said to have more than one residence. If he have houses in different places, at each of which he keeps an establishment, each may be called his residence, though he may not go there for years.'

"5. But with regard to this 'constructive' residence, it was held in *Rex* vs. *Mitchell* (10 East. 511) that in the case of an unmarried Military officer who had no other home than his mother's house at which he used to reside whenever he obtained leave, which he usually did for three months in the year, and where apartments were always reserved for his use, that being, as an officer, subject to the will and pleasure of the Queen, he was not *sui juris* and therefore could not have such an intention of returning as to constitute a constructive residence. The principle of this decision will apply to the native servants of Government, who, under it, will be held to reside at the place where they are from time to time officially posted and not at their paternal or ancestral home also.

"6. On the other hand it was held by the High Court of Bombay (8 Bo. H. C. R. 236, O. C. J.), following several similar decisions of the Calcutta High Court, that 'an inhabitant of Baroda who carries on the business of a banker at Bombay by a múnim and has a place of business there, is constructively an inhabitant of Bombay.' The same banker would reasonably be held to 'reside at Bombay if he occasionally used his place of business there as a residence though he might not go there for years.'

"7. It would not be possible to lay down any fixed rules for determining what shall, and what shall not, constitute residence for the purposes of section 18 of the Local Boards Act, 1883. Each case should be liberally decided upon its particular merits in accordance with the above principles, the basis of which appears to be that a person, who claims to be qualified to vote as a resident of any place must have an appreciable interest in the good government of that place." (G. R. No. 485, 6th February 1884, F. D.)

Sections 11 & 19. Females—Holders of alienated land and tenants.—Females are not qualified to be elected members of Local Boards (section 11) but they are not disqualified as females from voting. The disqualification of females in section 19 was struck out when the Bill was under discussion by the Legislative Council.

2. The same rule should be applied to female holders of entire alienated villages (if any) by the Collector under section 17.

3. Holders of land in alienated villages are entitled to be entered in Lists I and II if they come forward and establish their right under Section 22. Sections 10 and 18 do not exclude tenants, but if their right is not patent from the Collector's records, they are bound to make application to the Collector to insert their names under section 22. (G. R. No. 1498, 24th April 1884, F. D.)

Proxy by a female exempted from stamp duty.—The stamp duty payable under Article 50 (*b*) of Schedule I of the said Act on a proxy executed by a female empowering any person to vote at any one election of members of a Local Board held under the provisions of Bombay Act I of 1884 (The Bombay Local Boards Act, 1884,) is reduced to one anna. (No. 8931, R. D., republishing G. of I. Notification 4409, *B. G. G.*, 1884, Pt. I., p. 975.)

Section 22.—Memorandum from the Remembrancer of Legal Affairs:— Applications to a Collector under section 22 of the Local Boards Act are liable to court-fee of eight annas under Act VII of 1870, Schedule II, Article 1 (*b*)." -(G. R. No. 3725, 8th May 1885, R. D.)

Section 38.—Powers as to Officers and Servants.—Memo. by L. R. :—" Section 38 of the Act empowers the District Local Board to 'engage' such officers and servants as they deem necessary for all the Local Boards of the district.

" 2. Section 28 (*c*) authorizes the Presidents of each Local Board to 'dispose of all questions relating to the service' of the officers and servants of that Board, and this power covers the grant of leave of absence from service.

" 3. Section 40 expressly declares that the power of punishing or dismissing officers and servants vests in the District Local Boards.

" 4. Section 32 enables each Local Board to make regulations 'generally in respect to the transaction of business,' and in virtue of this power the District Local Board may make regulations regarding the appointment, punishment and dismissal of officers and servants and, in those regulations, may if they think fit delegate any of these matters under clause (6) to Committees.

" 5. But the regulations to be made under section 32 (including those under clause (6) regarding the delegation of the Board's powers to committees) must be consistent with 'any rules or orders made by Government under section 69.' And section 40 vests the power of punishing and dismissing in the District Local Board also, subject to any rule or order made by the Governor in Council under section 69.'

" 6. Section 69 (*c*) empowers the Governor in Council to prescribe 'such general conditions as shall seeem fit * * * as to the appointment, control, punishment and dismissal of officers and servants of Local Boards.' In virtue of this power it is competent to Government to require that in the case of certain officers and servants or, if necessary, of all officers and servants appointments, punishments and dismissals shall in the first instance be made by the President of the District Local Board or of the Táluka Local Board as the case may be, or by some superior Local Board officer, and that all appointments, punishments and dismissals so made shall be subject to ratification only by the District Local Board, or by any Committee to whom the District Local Board think fit to delegate the power. The convenient discharge of business requires that some such rule should be prescribed, but officers above a certain rank might be exempt from it.

" 7. In the absence of any such general rule made by Government under section 69 (*c*) of the Act, it is competent to any District Local Board to make a regulation to the same effect under section 32.

" 8. The general regulations which a District Local Board is empowered to frame by section 39 of the Act are general regulations as to the length of service of the officers and servants of the Board, the leave they may receive, the allowances they may draw whilst on leave, the remuneration of persons acting for them and the pensions, &c., they are to receive on retirement. In granting leave and disposing of other questions under section 28 (*c*), the President is to act subject to these regulations, *i.e.* is not to make any order inconsistent with them. The regulations to be made under section 39 have nothing to do with the delegation of any of the Board's powers, and therefore that section does not appear to be in any way inconsistent with section 32 (6), which does deal with such delegation. Moreover, the grant of leave is not one of the Board's powers: that is vested by section 28 (*c*) in the President of each Local Board." (G. R. No. 1234, 15th February 1886, R. D.)

Section 39.—Pound-keepers and Ferrymen not servants of Local Boards.—Pound-keepers and ferrymen are not employed and paid by the Local Boards but by Government, and therefore they should not be included in regulations framed by the Local Boards under section 39 of Bombay Act I of 1884. (G. R. No. 2362, 26th March 1886, R. D.)

Appointment of Pound-keepers and disposal of realizations.—Memo. by L. R.:—The intention of the Legislature appears to be that the District Magistrate should ordinarily appoint the pound-keeper and pay his remuneration and that all realizations should be sent to the District Magistrate, the surplus, if any, being disposed of periodically in such manner as Government direct. This should, be the practice for all pounds in respect of which the District Magistrate's functions under sections 5, 6, 12 and 17 have not been legally transferred to some local body. In the case of any pound in respect of which the said functions have been transferred to a local body the proceeds will be paid to that body instead of to the District Magistrate and that body will dispose of the surplus by appro-

priating it or otherwise as Government may from time to time direct under section 1 (*b*) of Act XVIII of 1883." (G. R. No. 383, 17th January 1887, R. D.)

Section 44.—Investment of Local Funds illegal.—The investment of any portion of Local Funds is not only forbidden by the Government of India but is also not authorized by Bombay Act I of 1884. (G. R. No. 1778 of 22nd June 1886, F. D.)

Section 44 (c).—Charges on account of Ferries.—It is clear from clause (c) of section 44 of the Act that *all* charges on account of ferries are chargeable to Provincial Revenues, the term maintenance including current repairs to existing boats as well as the construction of new ones. This arrangement does not involve any loss to Provincial Revenues, because the gross proceeds of the ferries are credited to those revenues and only the net proceeds after deducting all charges are payable to local fund concerned. (G. R. No. 6949 of 27th August 1885, R. D.).

Maintenance of Ferries.—The term "maintenance of ferries" in section 44 of the Local Boards Act undoubtedly includes the provision of boats for working the ferries, and no modification of the orders issued in Government Resolution No. 6949, dated 27th August 1885, is required. It should however be understood that ferries do not include approaches to them and piers, which if constructed by Local Fund Committees and Local Boards vest in the Boards, in which case they are responsible for the maintenance and repair of them.

2. If the cost of working public ferries exceeds the receipts, the Local Boards are not bound to make good the deficit. But there ought to be no deficits. Public ferries ought to be so managed as to pay, and heavy charges for approaches, &c., should not be incurred from the Ferry Fund but by Local Boards.

3. The Governor in Council is unable to perceive how Local Boards can establish and maintain ferries distinct from the public ferries established under Bombay Act II of 1868. (G. R. No. 265 of 2nd February 1885, F. D.).

Construction of new ferry boats.—If the cost of construction of a new boat is provided by Provincial funds the amount will have to be recovered before any surplus is handed over to the Local Board. It therefore comes to the same thing as far as their funds are concerned whether the money is provided from Provincial or Local resources. The cost of the boat will cause a "deficit" only if the net receipts from the date of last providing a new boat have not been sufficient to cover the charge. In these circumstances it will be best that the Local Fund should provide the assignment required for a new boat, and if they can show that the cost will involve a genuine deficit, Government will be ready to consider their claim for aid from Provincial funds. (G. R. No. 3646 of 2nd December 1886, F. D.).

Section 44 (f).—Quarry fees.—It would appear from the letter of the Collector of Kánara and from the reports of the Commissioners, C. D. and N. D., that there is still some diversity of practice as regards the treatment of quarrying fees in some districts which it is desirable to put a stop to. The Commissioner, C. D., proposes that all fees for quarrying stones, muram, &c., levied in respect of land outside municipal limits should be credited to Local Funds and that within municipal limits they should be credited to Local Funds or to Municipalities according as the property in the land vests in Government or the Municipality. The course suggested by the Commissioner, C. D., appears well calculated to secure uniformity. Its adoption is accordingly sanctioned in supersession of previous orders on the subject, and the Commissioners should be requested to draw up in consultation and circulate for the information and guidance of the Mámlatdárs and other subordinate district officers such instructions in the matter as may appear to them to be necessary to secure uniformity of procedure with reference to the treatment of these fees.

It should be clearly understood that the permission given to Local Funds to appropriate the fees derived from quarrying or delving in waste lands is not to prejudice in any way the proprietary rights of Government as to its power of disposal over the lands in question. (G. R. No. 1057 of 8th February 1890, R. D.).

Section 45.—Expenditure outside local area.—The condition on which the law permits a Local Board to make a grant from the Local Fund for expenditure outside of the area under its authority is that such expenditure is for the use and benefit of that area, and with every desire to assist the Municipalities Government is bound by law to see that this condition is fulfilled before its sanction is given as required by section 45. The District Board cannot regulate its grant with reference to the percentage of the extra school expenditure on the municipal revenue. Moreover, although it was not desired that the Local Government Acts should place new charges on Municipalities, this is a distinct matter from the provision of funds to take the place of the District Local Fund money which has been justly restored to the District Local Boards, and the Municipalities must expect to add to their taxation an equivalent of the school rate which the rural population have paid for some twenty years past.

2. Government cannot with due regard to the law sanction a larger grant from a District Local Fund to Municipalities than the sum which bears, to the total cost which must in the absence of such grant be met from municipal funds proper, the same proportion

as the children in the schools whose parents are payers of cess to the District Local Fund on land outside municipal limits bear to all the children attending the schools. (G. R. No. 8663 of 24th October 1885, R. D.).

Section 46 (a) and section 46 (c) distinguished.—Section 46 (*a*) refers to establishments engaged at any time by District Local Boards under section 33, to which sanction of superior authority is not required by the Act subject only to section 63. Section 46 (*c*) relates to establishments employed at any time in Government offices or elsewhere for Local Board business by order of Government, and these establishments cannot be engaged without reference to Government and explanation of the necessity for engaging them.

2. The two classes are quite distinct and should not be confused. If the establishments under discussion are employed in Government offices on treasury business, a distinct report should be submitted to show that they are necessary, how they will be employed and what they will cost. Until this has been done the Accountant General is correct in checking them for want of sanction. (G. R. No. 5458 of 31st July 1886, R. D.).

Section 46 (c).—Pay of Clerks in Government Offices.—All clerks employed in any Government office on the educational business of a Local Board under section 46 (*c*) must be paid for out of the portion of the General Local Fund which remains after the one-third for educational purposes has been set apart. (G. R. No. 1692, dated 17th September 1885, E. D.)

The clerks employed in the offices of Collectors on the business of Local Boards like all other establishments coming under section 46 (*c*) of the Local Boards Act, are to be regarded as Government servants in accordance with the view taken in paragraph 5 of Government Resolution No. 2854, dated 3rd August 1883, and the proper course appears to be for Government to defray the charges on account of them from General Revenues, recovering them ultimately from Local Funds. (G. R. No. 3084, dated 6th November 1885, F. D.).

Section 47.—Assignments to Municipalities.—Section 47 of the Bombay Local Boards Act lays down quite clearly that only the cess levied on lands within the municipal district can be assigned by a District Local Board to a Municipality under that section. The cess on land in the area under the authority of a District Local Board is naturally credited to the District Local Fund, but its expenditure outside the same area is justified by the last clause of section 45. (G. R. No. 6787 of 21st August 1885, R. D.)

Every Municipality has been liable for the maintenance of an adequate provision for primary schools from the date on which Bombay Act II of 1884 came into force. This being so, Government leave it to the local bodies responsible to administer their funds as they are permitted or required by the law. The Provincial grant of one-third total cost can be claimed only from the date on which the Municipalities undertook the maintenance of the town schools. (G. R. No. 6609 of 17th September 1886, R. D.)

Section 48.—Expenditure for educational purposes and deduction for Municipal District.—By section 48 of the Bombay Act I of 1884 (Local Boards) the Educational one-third of the net proceeds of the local cess is placed at the disposal of the District Local Board with this exception, that the Educational one-third of the cess, levied on lands within Municipal districts and Cantonments included in the area for which such board is established, is to be assigned and paid to such Municipalities and Cantonments and spent by them on educational purposes. Therefore, the cess levied on lands outside of municipal and Cantonment limits, the owners or occupants of which reside within Municipal limits, is at the disposal of the Táluka Local Board. This is the correct principle, for it is clear that if local rates, instead of being spent locally for the benefit of the area for which the Local Board administration is created, should be claimed by non-resident cess-payers and carried off to be expended in any place where they happen to reside, the object of Local Funds would be defeated.

2. Nevertheless the case now put may be met in the following way. In section 30 provision is to be made in certain matters for the areas subject to the Boards, not in the areas. Section 45 enacts that with the sanction of Government expenditure may be made for the use or benefit of the said area, outside of that area. By section 36 Joint Committees may be appointed by District Local Boards and Municipalities for any purpose in which they are jointly interested. If then a District Local Board considers that it will be for the use or benefit of the area under its authority, that is of the rate or cess-payers of that area, to subsidise, from the funds at its disposal, primary schools established in Municipalities included in that area, it can do so with the sanction of Government by use of the above provisions. (G. R. No. 1884 of 6th November 1884, E. D.)

Section 52.—Accounts to be verified before publication.—It is evidently desirable that the annual accounts of every Local Board should, before being published in the *Official Gazette* as required by section 52 of the Act, be verified with the audited accounts maintained in the Accountant General's Office. The Presidents of Local Boards should be requested to adopt this course if they have not already done so. (G. R. No. 6608 of 17th September 1886, R. D.)

Procedure for publication of accounts.—Government consider that the accounts of each district should be published in the *Government Gazette* by the Collector, and the Accountant General should accordingly be instructed to forward the accounts after verification to the Collector concerned in future and not to Government unless orders on any particular points are needed. (G. R. No. 1 of 3rd January 1887, F. D.)

Section 57 (b).—Detailed estimate of work how to be approved.—Memo. from L. R :—Looking at section 57 (*b*) no provision can be legally made by a Local Board in its Budget Estimate for any work, unless it has first of all, whether at the same meeting at which the Budget is considered, or previously approved, a detailed estimate of the cost of such work, a distinct resolution should be passed by the Board recording its approval of any such estimate, and such resolution should appear in the Minute of Proceedings. Although it is not obligatory, it would be convenient, if each detailed estimate, which is thus approved by the Board, were endorsed under the signature of the President or of some other officer of the Board, to the effect that it was approved by the Board at their meeting of the

189 . If this procedure is not adopted, the Collector may, at the request of the Government Executive Engineer, call for an extract from the Board's proceedings under section 62 (*b*), to enable him to satisfy himself that the detailed estimate of any work, which he is required to execute for the Board, has been duly approved. (No. 27A —45 of 28th May 1886, P. W. D.)

Section 57.—Executive Engineer's Plans and Estimates.—Local Boards cannot reject the Executive Engineer's plans and estimates, prepared under section 57 (*b*), nor can they deviate from them, unless such deviation is approved by the Superintending Engineer, on a reference from the Local Board concerned.

Under section 61, clause 2, Local Boards do not obtain estimates, but entrust works to the Executive Engineer for execution. If in any case outside the Act they simply obtain advice about a work within their own competence, they are not bound to take that advice. (No. 32 A—69 dated 10th August 1886, P. W. D.)

Section 61.—Charges by Executive Engineers for Plans and Estimates.—Government authorize charges, as under, being made by Executive Engineers, for preparing plans and estimates, called for by Local Boards in connection with Local Fund works :—

1 per cent. on estimate for review of projects.

2½ per cent. on estimates for preparation of detailed plans and estimates. (G. R. No. 220 A—262, dated 31st July 1885, P. W. D.)

Local Board adopting standard or plans supplied to another Board.—If one Local Board desires to adopt the standard or any other plans supplied to another Board, the proper course would appear to be for them to ask the Local Board for copies, without reference to the Executive Engineer. The Local Board concerned would then modify the estimate to suit their conditions, and the project would only require review by the Executive Engineer, for which a charge of 1 per cent. only would be made. '(G. R. No. 35 A—69, dated 25th September 1886, P. W. D.)

Sections 64, 65.—Delegation by Collector of his powers to Assistant or Deputy : Powers under sections 64 and 65 to be reserved.—Memo. from L. R. :—The Land Revenue Code, Bombay Act V of 1879, is an Act passed 'to consolidate and amend the law relating to Revenue Officers, as well as the law relating to the assessment and recovery of land-revenue. Chapter II of the Code deals with the 'Constitution and Powers of Revenue Officers' and section 10, which occurs in that Chapter lays down that an Assistant or Deputy Collector in charge of tálukás shall, subject to appeal, perform all the duties and exercise all the powers conferred upon a Collector of a district by the Code or 'any other law at the time being in force,' so far as regards the tálukás in his charge; but authority is given to the Collector to withdraw any duties or powers that he thinks fit from any Assistant or Deputy.

2. There is no ground, I think, for limiting the meaning of the words 'or any other law at the time being in force' by holding that only laws relating to land-revenue are meant. If this had been intended, the Legislature would, I think, have employed language which would have made such intention clear. The intention of the words actually used is, I think, that in his tálukás the powers and duties of an Assistant or Deputy Collector shall be the same as are conferred or imposed by any law upon the Collector, subject always to a right of appeal to the Collector and to the power of the Collector to direct his Assistant or Deputy not to perform certain duties or exercise certain powers.

3. The Local Boards Act has been passed by the Legislature with a knowledge that this was the general law, and as it has not thought fit to enact that the Collector's duties and powers under that Act shall not be performed or exercised in their respective tálukás by his Assistants or Deputies, I am of opinion that the general law applies to the Collector's functions under the Local Boards Act.

RESOLUTION.—The Collector will have no difficulty in deciding what powers conferred upon the Collector by Act I of 1884 he should reserve to himself. The powers under sections 64 and 65 should be so reserved. '(G. R. No. 8718, dated 5th November 1884, R. D.)

Correspondence.

A rule that Presidents of Táluka Boards (the Assistant Collectors in charge of tálukás) are not to correspond direct with the Executive Engineers cannot be made, and it seems expedient that Presidents of Táluka Boards should correspond direct with Executive Engineers on matters relating to works for which the Táluka Board is responsible. When the District Board is also interested and should be consulted, the correspondence no doubt must pass through the District Board. The matter should be adjusted locally according to circumstances. (No. 10 A—12, dated 30th January 1886, P. W. D.)

Postage Stamps.—Members of Local Boards when forwarding by post correspondence relating exclusively to Local Funds questions must use ordinary stamps, and can if they so desire recover their value from Local Funds. (G. R. No. 2363, dated 26th March 1886, R. D.)

Stamps on Instruments and Court Fees.

"Clause 18 of the 2nd Schedule to the Stamp Act is as follows:—

"Any instruments executed by, or on behalf or in favour of Government in cases where but for the exemption the Government would be liable to pay the duty chargeable in respect of such instrument.".

This exemption clearly relates to instruments executed by or on behalf of Government or in its favour only in cases in which the Government would be chargeable with the duty like any private person, but for the exemption.

Cheques drawn by Presidents or Secretaries of the Local or District Boards in their official capacity are clearly not instruments made on behalf of Government; consequently they do not come within the meaning of the exemption above quoted. The fact that the duty would come out of funds which are Government money is irrelevant to the question submitted.

Suppose a deed is drawn in favour of a Government servant, but it is understood though not mentioned in it that such Government servant is a Trustee for the Government, and the Government servant as a party to the instrument would have to pay the stamp duty (which would have to be recouped by Government), such a document would be liable to stamp duty, Government not being a party mentioned therein, though eventually the payment of the stamp duty would have to be made by the Government.

Under these circumstances the cheques in the question are not exempt from duty but are liable to the usual stamp duty. (G. R. No. 2759 of 26th September 1885, F. D.)

Cheque on Government Treasury.

Memo. from L. R.:—"Under section 50 of the Local Boards Act money required by a Local Board to provide or replenish a permanent advance can only be drawn from the Government Treasury by cheque.

"2. Rule 46 prescribes the form of cheque. It may be doubted, whether this order is properly designated a cheque as defined in the General Stamp Act on the ground that in the case of Local Funds which under section 44 of the Act Government is bound to keep it cannot be said to be acting as a banker. But even if this doubt is correct, the document fulfils the conditions of a bill of exchange as defined in Section 5 of Act XXVI of 1881 and is equally liable, if for more than Rs. 20, to a stamp duty of one anna under Article 11 (*a*) of Schedule I of the General Stamp Act.

"3. There is no rule which requires the first cheque drawn for money required to begin a permanent advance to be accompanied by any receipt at all. In the absence of any such rule any demand for a receipt seems irregular. It would be quite sufficient if the cheque were merely accompanied by a memorandum stating the purpose for which the money was required, but not in the form of a receipt. If however for any reason a written acknowledgment of the receipt of money (over Rs. 20) is given by the officer drawing the cheque, it must be stamped as it appears to be a receipt as defined in the General Stamp Act.

"4. As regards money drawn to recoup advances Rule 45 prescribes exactly what documents must accompany the cheque, viz., a bill supported by sub-vouchers. There is nothing requiring the receipt of the officer who draws the money, and the bill which he sends in should not be in the form of a receipt. If for any reason he does give a written acknowledgment of receipt of money (over Rs. 20) it must be stamped, but his doing so seems quite superfluous.

"5. For the reasons given by the Advocate General of Bengal (quoted in Government Resolution No. 2759, dated 26th September 1885), documents executed by officers of Local Boards are liable to stamp duty.

6. When a doubt arises as to the liability of any class of documents to stamp duty the proper course is to refer a test case under section 46 of the Stamp Act to the High Court and not to Government which can give no binding orders on the subject." (G. R. No. 4021 of 2nd July 1887, R. D.)

Issue of Cheque-books.

Letter from the Accountant General :—

"I have the honour to suggest for the consideration of Government that in future the stock of cheque books for the use of Local Boards may be kept in this office, and issued from it instead of by the Superintendent, Central Press, as at present.

"These choques I propose to issue with an impressed stamp as a check against possible frauds in the Boards offices. They are now stamped with the ordinary adhesive receipt stamps, the charges for which are unsupported by vouchers, as Treasury Officers grant receipts only for service and Local Fund Postage stamps. They might be required to give receipts for receipt stamps purchased by Local Boards, but on the whole it seems to me a safer plan to issue the cheque books with the stamp impressed. When indenting it will be necessary for the Boards first to pay into the Government Treasury the sum due for the stamps, and this office will then have the cheques impressed by the Superintendent of Stamps and forward them.

"The expenditure upon receipt-stamps is considerable, and incurred, I believe, almost wholly for cheques."

RESOLUTION.—The suggestion of the Accountant General is approved. (G. R. No. 6478, dated 2nd September 1889, R. D.).

PART VIII.

RULES UNDER THE LOCAL AUTHORITIES LOANS ACT XI OF 1879.

RULES FOR THE GRANT OF LOANS TO LOCAL AUTHORITIES BY GOVERNMENT.

In exercise of the powers conferred by Section 5 of the Local Authorities Loan Act, 1879, the Governor General in Council has made the following Rules for the grant of Loans to Local Authorities by the Government :— (G. N. 116, *B. G. G.*, 1889, Pt. I., p. 15, republishing G. of I. Nos. 15 and 16, dated 1st January 1890.)

1. These rules shall come into force on the 1st day of February 1889. On and from that date the rules published with Notification No. 2749,* dated 17th August 1883, in so far as they relate to the granting of loans, shall be rescinded except as regards loans applied for before these rules come into force. (G. N. 501, *B. G. G.*, 1890, Pt. I., p. 78, republishing G. of I. No. 417, dated 24th January 1890.)

2. In these Rules (1) 'the Act' means The †Local Authorities Loan Act, 1879, (2) 'Local Authority' and (3) 'funds' have the meanings assigned to them respectively in the Act ; (4) 'the Local Authority' means the Local Authority applying for, or, as the case may be, receiving or having received the loan ; (5) 'loan' means a loan under the Act.

3. A loan must be defined in rupees and not by the sterling or any other foreign standard.

4. No loan shall be granted except for the construction or repair of works of public utility within the local limits of the area subject to the control of the Local Authority, or for the benefit of the inhabitants within those limits.

5. An application for a loan shall state—

1st, the work, or works, for the construction or repair of which the loan is required, and an estimate of the cost thereof :

2nd, the amount which it is proposed to borrow :

3rd, the fund or funds on the security of which it is proposed to borrow :

4th, the law or laws under which the said fund or funds is or are levied, received or held :

5th, the period for which the loan is required, the number and amount of the instalments, if any, in which it is proposed that the loan shall be taken, the dates proposed for receiving such instalments, and the instalments, if any, in which it is proposed to repay the loan :

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* Republished at pages 611 and 612 of the *Bombay Government Gazette* of the 23rd August 1883.

† *N.B.*—A Cantonment Authority is now to be deemed a Local Authority within the meaning of Act XI of 1879. *Vide* XIII of 1889, section 60 (3).

6th, a detailed account of the revenue and expenditure of the Local Authority for the three last preceding years:

[*Note.*—Debt and deposit transactions, such as receipts from, and repayments of, loans and deposits from contractors and others, should not be included under revenue and expenditure, but should be shown separately. All important variations in the amounts of revenue and expenditure should be explained.]

7th, all existing prior charges upon the funds of the Local Authority.

6. The Local Government shall cause such enquiry as it thinks necessary or expedient to be made into the statements contained in the application and into the use and value of the proposed work.

7. If it appears to the Local Government that the loan ought not to be granted, it shall reject the application.

8. If it appears to the Local Government probable that the loan ought to be granted, it shall cause to be published in the local official Gazette, and otherwise, as it deems fit within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 7, as it may think necessary.

9, After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application, or grant the loan if funds are available from the grant placed at its disposal for the purpose: Provided that, where the Local Authority is any one of the Corporations mentioned or referred to in clause (*a*) of the proviso to section 8 of the Act, the Local Government, if it approves the application, shall not itself proceed to sanction it, but shall refer the application for the orders of the Governor General in Council.

10. The Local Government shall make such provision as may seem to be necessary for the proper inspection of all works which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the purposes for which it is made. Every such work, and the accounts connected therewith shall be open at all times to the inspection of the Superintending or Executive Engineer in whose division the work is situate, and of any person who may be authorised to inspect the accounts of the Local Authority, and of any other person specially authorised by the Local Government in this behalf.

11. If the Local Government considers that the conditions on which a loan was granted have not been fulfilled, or that the Local Authority has failed to comply with any of the requirements of these Rules, it may, at any time, order that no further payments shall be made on account of such loan, and recover the amount advanced, with interest thereon, in the manner mentioned in section 6 of the Act.

12. Interest shall be charged half-yearly on each loan at the rate agreed upon: and shall be reckoned and paid on each instalment from the date on which it is received.

13. The Local Authority may, at any time with the previous consent of the Local Government, repay the whole or any part of a loan made from the Public Treasury in advance of the period fixed by the conditions of the loan.

14. The cost of any enquiry made under Rule 7, of advertisements published under Rule 9, of inspections made under Rule 11, and of any other proceedings by order of the Local Government or the Governor General in Council under these Rules, shall be determined by the Local Government, and shall be paid by the Local Authority.

15. *(a)* The accounts of every loan shall be kept by the Accountant General of the Province in which it is made.

(b) The Local Authority shall give to the Accountant General and the Local Government any information which they may require regarding the expenditure of the loan, and regarding its funds.

16. An annual statement of all loans granted under the Act, repayments due and made during the year, and balances outstanding at the beginning and end of the year in each province, or under each LocalGovernment, shall be prepared by the Accountant General and submitted to the Government of India through the Local Government which shall add a report of the progress of the works. Such statement shall be published in the local official Gazette.

17. An attachment of any funds under section 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official Gazette, and otherwise, as may be directed by the Local Government, within the local limits of the area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid into the Government Treasury; and the accounts of moneys so collected, and of the cost of the collection shall be prepared in such form as the Local Government may from time to time direct. A copy of the Accounts shall be delivered to the Local Authority, and published in the local official Gazette.

(*Rules for the raising of Loans in the open market.*)

In exercise of the powers conferred by sections 5 and 7 of the Local Authorities Loan Act, 1879, the Governor General in Council has made the following Rules for the raising of loans by Local Authorities in the open market:—

1. These rules shall come into force on the 1st day of February 1889. On and from that date

the rules published with Notifications Nos. 2748 and 2471*, dated 17th August 1883 and 11th May 1888, respectively, in so far as they relate to the authorisation of loans, shall be rescinded, except as regards loans applied for before these Rules come into force.

2. In these Rules (1) 'the Act' means The Local Authorities Loan Act, 1879; (2) 'Local Authority' and (3) 'funds' have the meanings assigned to them respectively in the Act; (4) 'the Local Authority' means the Authority applying for permission to raise or, as the case may be, raising or having raised the loan; and (5) 'loan' means a Loan under the Act.

3. A loan must be defined in rupees and not by the sterling or any other foreign standard.

(Notn. No. 3087, *B. G. G.*, 1889, Pt. I., p. 703, republishing G. of I. Notn. 4105, dated 9th August 1889.)

4. A loan shall not be raised except for the construction or repair of works of public utility within the local limits of the area subject to the control of the Local Authority, or for the benefit of the inhabitants within those limits; and the term of a loan shall not extend over a longer period than twenty years except under very exceptional circumstances, and in no case over a longer period than thirty years.

5. Whenever it is desired to obtain the authorisation of the Government to the raising of a loan under section 7 of the Act a statement shall be submitted to the Local Government showing:—

1st, the work or works for the construction or repair of which the loan is required and an estimate of the cost thereof:

2nd, the amount which it is proposed borrow:

3rd, the fund or funds on the security of which it is proposed to borrow:

4th, the law or laws under which the said fund or funds is or are levied, received or held:

5th, the dates between which the money borrowed is to be received:

[NOTE.—It is essential that the authority to borrow in the market should be limited to a reasonable time, as loans of any considerable amount cannot be held in suspense indefinitely. The dates, therefore, must be fixed with reference to this condition, and must not be so wide apart and so indefinite as practically to be no limitation.]†

6th, the term of years for which the money is to be borrowed, the instalments, if any, in which it is to be repaid, and the amount of sinking fund, if any, provided for its repayment:

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* Republished at pages 610—11 and 433 of the *Bombay Government Gazette*, dated respectively the 23rd August 1883 and 17th May 1888.

† It cannot be said that a statement of the maximum amount of the instalments and of the maximum period within which they will be received is a compliance with the rule. (G. R. 1868 of 31st May 1888, G. D.)

7th, a detailed account of the revenue and expenditure of the Local Authority for the last three preceding years:

[*Note.*—Debt and deposit transactions, such as receipts from, and repayments of, loans and deposits from contractors and others should not be included under revenue and expenditure but should be shown separately. All important variations in revenue and expenditure should be explained.]

8th, all existing prior charges upon the funds of the Local Authority.

6. The Local Government shall cause enquiry as it thinks necessary or expedient to be made into the statements contained in the application and into the use and value of the proposed work.

7. If it appears to the Local Government that the loan ought not to be raised, it shall reject the application.

8. If it appears to the Local Government probable that the loan ought to be raised it shall cause to be published in the local official Gazette, and otherwise, as it deems fit, within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 6 as it may think necessary.

9. After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application or sanction it: Provided that, where the Local Authority is any one of the Corporations mentioned or referred to in clause (*a*) of the proviso to section 8 of the Act, the Local Government, if it approves the application, shall not itself proceed to sanction it unless it is authorized so to do by some special enactment for the time being applicable to the Corporation, but shall refer the application for the orders of the Governor General in Council.

10. The Local Government shall make such provision as may seem to be necessary for the proper inspection of all works which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the purposes for which it is raised. Every such work, and the accounts connected therewith shall be open at all times to the inspection of the Superintending or Executive Engineer in whose division the work is situate, and of any person who may be authorized to inspect the accounts of the Local Authority, and of any other person specially authorized by the Local Government in this behalf.

11. The cost of any enquiry made under Rule 6, of advertisements published under Rule 10, of inspections made under Rule 10, and of any other proceedings by order of the Local Government or the Governor General in Council under these Rules, shall be determined by the Local Government and shall be paid by the Local Authority.

12. The Local Authority shall give to the Accountant General and the Local Government any information which they may require regarding the expenditure of the loan and regarding its funds.

13. An attachment of any funds under section 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official Gazette, and otherwise, as may be directed by the Local Government, within the local limits of the area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid to the lender, and the account of moneys so collected, and of the cost of collection, shall be prepared in such form as the Local Government may from time to time direct. A copy of the accounts shall be delivered to the Local Authority, and published in the local official Gazette.

PART IX.

RULES MADE BY THE COMMISSIONERS NORTHERN, CENTRAL AND SOUTHERN DIVISIONS, WITH THE APPROVAL OF GOVERNMENT, UNDER THE PENSIONS ACT, 1871.*

In exercise of the powers conferred by Sections 5, 8 and 14 of the Pensions Act, 1871, the Commissioners, Northern Division, Central Division, and Southern Division, have, with the approval of Government, framed the following rules in supersession of the rules under section 14 of the said Act, published at page 656 of the *Bomb y Government Gazette* of 7th August 1873, and of all other rules and orders on the same subject hitherto in force in any part of the Divisions of the said Commissioners:—

I.—Under Section 5.†

Disposal of claims concerning service pensions;

1. Claims relating to pensions or gratuities on account of service, whether in the civil, military, naval, or any other department of the administration, are to be inquired into and disposed of in such manner as may be directed in the Civil Pension Code, or in any rules or orders for the time being in force applicable to such pensions respectively. (G. No. 6849, *B. G. G.*, 1879, Pt. I., pp. 1020 to 1027.)

and of claims relating to service watan allowances.

2. Claims relating to any cash payment forming part of the property of a watan, in respect of which no service commutation settlement has been effected, will be inquired into and disposed of in accordance with the provisions of the Bombay Hereditary Offices Act and of the rules and orders from time to time in force thereunder. In the event of any such claim being preferred to which none of the said provisions shall appear to be applicable, the orders of Government should be obtained through the proper channel previous to the disposal thereof.

Extent of applicability of rest of these Rules.

‡3. Nothing in the rest of these Rules applies to any pension, gratuity or cash payment to which the two last Rules apply.

Disposal of claims preferred under section 5.

4. Claims preferred to a Collector under section 5 of the Act may be either—

(*a*) against Government only, or

(*b*) against Government and one or more private parties jointly, or

(*c*) against private parties only.

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* These Rules have been adapted to Sind under Government Resolution No. 7171 of 28th November 1880.

The Rules known as the "Amended Rules of 1842," under which cash allowances were adjudicated, have the force of law under the Pensions Act in this Presidency, but are now seldom required.

† The provisions of sections 4, 5, & 6 of the Pensions Act, 1871 do not appear applicable to haks payable by an Inámdár and not by Government. The Act relates only to cash allowances payable by Government. (G. R. No. 477 of 17th January 1885, R. D.)

‡ With reference to Devasthán cash allowances *vide* Memo. by Acting L. R. accompanying G. R. 7099, 20th September 1889, R. D., quoted *infra*, p. 305.

Claims falling under class (*a*) or (*b*) shall ordinarily be disposed of by the Collector; but whenever any important legal question is involved which the Revenue Officers concerned may not feel themselves competent satisfactorily to deal with, the Collector may, with the previous sanction of the Commissioner, issue a certificate under section 6 of the Act authorizing the Civil Court to try the case.

Claims falling under class (*c*) shall be disposed of by the Collector if the question at issue between the parties is not of a complicated or difficult nature; but if the claimant applies for a certificate under section 6 of the Act, and sets forth satisfactory reasons for such application, or if the question at issue between the parties appears to be of a complicated or difficult nature, or if the claim is one which if awarded could only be enforced by a Civil Court, the Collector may issue a certificate under the said section 6 authorising the Civil Court to try the case: Provided that no certificate shall be issued for any case which could not be decided by the Civil Court in favour of one or more of the parties thereto without making an order or decree such as it is prohibited from making by the said section.

Previous sanction of Commissioner when necessary to final order of disposal.

5. Except in the cases provided for in the last paragraph of Rule 7, no claim by which the liability of Government to pay any pension or grant is affected directly or indirectly shall be disposed of by a Collector without first obtaining the sanction of the Commissioner of the Division to the order which he proposes to pass.

Reference of claims for inquiry to subordinate officers.

6. Any claim preferred to a Collector under section 5 of the Act may be referred by him for inquiry to any Assistant or Deputy Collector or other officer subordinate to him, and every Assistant or Deputy Collector in charge of tálukas may receive claims on behalf of the Collector and forward the same with his opinion after inquiry to the Collector; but every order for disposing of a claim or for granting a certificate under section 6 shall be made with the previous sanction of the Commissioner by the Collector himself.

Law, &c., to be observed in disposal of claims.

7. Claims relating to pensions or grants are to be disposed of in accordance with—

(*a*) The law, if any, for the time being in force applicable to such claims,

(*b*) The terms and conditions of the sanad or other document, if any, under which such pensions or grants are enjoyed.

(*c*) The rules or orders of Government for the time being in force if applicable to such claims.

But if any claim is brought, the subject-matter of which has been already inquired into and disposed of by competent authority, the Collector will merely record the fact of such previous decision, and dispose of the claim accordingly.

II.—Under Section 8.

Payments to be for the year commencing 1st May, but may be made in instalments.

8. All payments of pensions or grants are usually to be made in one lump sum for the year commencing on the 1st May and ending 30th April, but applications for their payment by monthly or quarterly instalments may be considered and disposed of by the Collectors, subject to the sanction of the Commissioners.

Payments of arrears.

9. Pensions and grants, for the payment of which application is duly made at the proper period, will be paid in full, except in the case of payment being suspended, pending the orders of a Civil Court or pending inquiries by Government or by any officer of Government. But if, owing to non-application or other neglect on the part of the claimants, such payments fall into arrear, the pensions or grants will be paid as follows:—

For the current year, in full.

First year's arrears, in full.

Second do., subject to a deduction of 10 per cent.

Third	do.,	do.	20 do.
Fourth	do.,	do.	30 do.
Fifth	do.,	do.	40 do.

Provided that no deduction shall be made under this Rule from arrears of payments due (1) on account of village devasthán allowance not exceeding Rs. 5 per annum in amount, or (2) under compensation bonds.

The "current year" means the year within which payment is properly due under Rule 14.

Payment of arrears due to deceased persons.

10. Subject to the provisions of Rule 9, Collectors may authorize the payment of arrears due to a deceased person after such investigation as shall satisfy them—

(*a*) of the actual date of such person's death, and

(*b*) that the applicant is entitled as such person's legal heir, or otherwise, to receive payment.

Pension or grant not drawn for six years to lapse.

11. Any pension or grant for payment of which no application is duly made for more than six years, or in the case of Hardás Gosávis' allowances, two years, is to be struck off the books, and all arrears forfeited.* (Notn. No. 623, *B. G. G.*, 1883, Pt. I., p. 83.)

*NOTE.—"A cash allowance payable to two persons A and B is disbursed to them in alternate years, so that if A receives payment of the whole allowance during 1882, B will be entitled to receive it during 1883, and so on.

"A not having presented himself before the Mámlatdár to demand the money payable when his turns came, it has remained unpaid for over six years. The other co-sharer B has however received payment of the allowance during the years in which it was payable to him according to the arrangement mentioned in the last paragraph.

Memorandum from the Remembrancer of Legal Affairs:—"It appears that the pension receivable by A and B in alternate years is one and the same pension. B has duly applied for

But in certain cases may be re-admitted.

But if the pension or grant is held under a permanent or hereditary title, is may be re-admitted without payment of arrears if a claim thereto is duly preferred under section 5 of the Act within twelve years from the date of the last payment.

Date of applications for arrears to be noted.

12. The date on which application for payment was made must be noted by the disbursing officer on all bills for arrears.

III.—Under Section 14.

Place of payment of pensions and grants.

13. Pensions or grants will be paid at the following places, namely :—

(1) If payable on behalf of a religious institution, at the treasury of the district or táluka in which such institution is situated, when the amount of the pension or grant exceeds Rs. 5 per annum, or, whatever the amount, when there is no hereditary patel in the village in which such institution is situated, and through the patel of the village in which such institution is situated when the amount does not exceed Rs. 5 per annum and there is an officiating hereditary patel in such village.*

(2) If payable on behalf of a religious institution in foreign territory, at the nearest Government treasury.

(3) If the pension or grant is personal, at the treasury most convenient to the recipient.

Orders for permitting transfers of payment under the above clause (3) will be made by the Collectors if the transfer sought is from one treasury to another within the same Collectorate, by the Commissioners if the transfer sought is from a treasury in one Collectorate to a treasury in another Collectorate within the same division, and by Government in any other case.

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and received the pension in the year in which he was entitled to payment and his applications should, I think, be held to have kept the title to the pension both of himself and of A alive. The terms of No. 11 of the rules under section 8 of the Pensions Act do not apply to the case any more than they would be applicable if A and B were one and the same individual, who for some reason of his own neglected to apply for payment in alternate years. Rule 9 is, I think, the only rule that can be fairly applied to the case." (G. R. No. 22, dated 3rd January 1883, R. D).

*Now, in cases where the allowances are paid to hereditary Patels a case requiring the operation of Rule XI of the Pension Rules is not likely to occur, as Government divest themselves of all responsibility as regards the allowances after they are once disbursed. But when there is no hereditary Patel in the village in which a religious institution is situated, the payment of any grant pertaining to it, whether it exceeds Rs. 5 or not, is to be made under the rules at the treasury of the district or táluka in which the village is situated. In such cases Rule XI of course applies, and under it any pension or grant, whatever be its amount, for payment of which no application is duly made for more than six years, should be struck off the books, and all arrear forfeited. (G. R. No. 3625, dated 5th May 1885, R. D.)

14. All pensions and grants shall be deemed to be due on the 1st May next after the completion of the year in respect of which they are payable, but shall ordinarily be payable only in the months respectively fixed, or hereafter to be fixed, by or under the orders of Government for payment of pensions and grants of the various descriptions. But when payment in monthly or quarterly instalments has been directed by the Collector under Rule 8, payments will be made in accordance with such direction.

Times of payment.

*15. Pensions and grants will be paid only to those persons whose names have been authorizedly entered in the records as the payees thereof, or to their duly empowered attorneys or mukhtyárs, or, if they are minors, to their administrators.

Persons to whom payments are to be made.

Except as is otherwise provided in Rule 23, payments will be made to an attorney, mukhtyár or administrator only, on his satisfying the disbursing officer by the production of a certificate, signed by a Magistrate or by some other well known person of respectability, that the payee was living on the last day of the year or other period for which the pension or grant is due.

Life certificates when necessary.

16. In the case of pensions or grants which Government recognize as alienable, the name of the lawful holder for the time being shall, subject to the provisions of Rules 17 and 18, be entered in the records as payee.

Payee in case of alienable pensions or grants.

But if any such pension or grant is continuable by Government only so long as the original grantee and certain of his descendants shall be in existence, and the payee has obtained a transfer of the same by sale, gift, mortgage, or the like, such payee must produce at the time of each payment a certificate from the Mámlatdár or Mahálkari of the táluka or mahál in which the original grantee or his descendants reside, or, if their residence be in foreign territory, of some British officer resident in the said territory, that such grantee or his said descendants (who should invariably be named) on whose behalf payment is claimed was or were alive on the last day of the year or other period for which such payment is due.

Life certificate of original grantee or of his descendants when necessary.

†17. Applications for mutation of payees' names in the records shall be received and disposed of by the Collectors.

Mutation of payees' names.

*With regard to entries *vide* G. R. No. 176 of 8th January 1887, R. D., *infra* p. 304.

†In view of hardships brought to notice by the Controller of Military Accounts and of the provisions of the Pensions Act, 1871, His Excellency the Governor in Council approves of the adoption of the following rule, subject to the sanction of the Government of India, which will be requested with reference to Articles 495 and 496 of Army Regulations, India, Vol. I, Part II:—

In the case of a transfer of any pension or grant which Government recognize as alienable, such mutation may be made on obtaining the consent in writing of the existing payee without further inquiry.

In the case of alienations; and

In the case of the death of a payee, the Collector may require the production by the applicant of a certificate of heirship and of such other evidence as he deems fit.

In case of death of former payee.

But whenever there is any dispute between conflicting parties, and whenever the Collector doubts whether the pension or grant is any longer continuable, the application shall be regarded by him as a claim under section 5 of the Act, and shall be dealt with accordingly.

When application for mutation of names may be treated as a claim under section 5 of the Act.

Any mutation of names rendered necessary by the decision in any claim under section 5 of the Act (including applications of the nature specified in the last preceding para. of this Rule) may be made by the Collector without further investigation.

Mutation of names consequent upon decision of claims under section 5 of the Act.

18. As a rule, the name of one person only will be entered as payee of each separate entire pension or grant.

Whose name may be entered as payee.

In the case of two or more joint transferees of a pension or grant which Government recognize as alienable, they must elect which one's name shall be so entered, and in the event of their failing so to do within such period as shall be fixed by the Collector, the Collector shall enter the name of such one of them as he deems fit.

In the case of joint transferees; and

In the case of joint-heirs, the Collector will determine who is the eldest male representative of the senior surviving branch of the original

In the case of joint-heirs.

"The Pension Paymaster shall pay arrears of pension due to the estate of a deceased native pensioner to any person whose name may have been registered in his office by the deceased pensioner as the person entitled to such payment. Pensioners should be encouraged to make such registration during their lifetime.

"2. If no such registration has been made, the Pension Paymaster shall pay the arrears which shall be limited to three months except when proof is given of the exact date of the death of the pensioner to any person who shall produce a certificate from the Collector of the district, in which the deceased pensioner resided, declaring such person to be entitled to such payment.

"3. The Collector will grant such a certificate to such person as shall, upon enquiry, appear to him to be best entitled to receive payment, either as sole heir, or as principal representative of all the heirs. For example, if the pensioner has left a widow and sons, the certificate will be given to the eldest son, if of full age, or to the widow as guardian of the sons, if the sons are minors." (G. R. No. 3698 of 6th September 1886, Military Department, and G. R. No. 78 of 10th January 1887, Military Department.)

grantee's or of the transferee's family, or, in the absence of male heirs, who is the senior heiress, and enter his or her name as payee: Provided that at the request of the person thus entitled to be entered as payee, the name of any other member of the family may be substituted by the Collector for that of the said person during such person's life-time.

Joint payees and separate recognition of sharers.

19. If any pension or grant has been hitherto entered in the records in the joint names of two or more persons, or, if any division of a pension or grant has been recognised, and the shares entered separately in the names of the respective co-sharers, such entries may hereafter be continued; but no such new entries shall be made in the records except with the previous sanction of the Commissioner, which shall be given only under very special circumstances.

But Collectors may, on written application, sanction sub-divisions of pensions or grants by disbursing officers at the time of payment by special written order in each case.

Payments to joint payees when their joint receipt is not obtainable.

20. Whenever, in consequence of disagreements amongst joint-payees or for any other reason, their joint receipt shall not be obtainable for any payment already due, the Collector may authorize such payment to be made to any one or more of such joint payees who are willing to pass a receipt.

Payees responsible for proper distribution of pension or grant to sharers.

21. The persons recorded as the payees of pensions or grants, and the persons to whom any payment may be made under the last preceding Rule, are not necessarily entitled to appropriate the whole of such pensions, grants or payment to themselves, but are responsible for distributing the same to all co-sharers or sub-sharers in the proportions to which they are respectively entitled.

Preparation of descriptive rolls.

22. Except, as is otherwise provided in Rule 23, a descriptive roll in the form of Appendix A shall be kept by the disbursing officer of every payee entitled to receive payment of a pension or grant from him. A copy of such roll under the disbursing officer's signature shall be furnished to the payee for production by him at the time of each payment, which shall be noted therein in the manner shown in the form.

Inquiries into identity of claimants.

The person applying for payment must be identified by comparison with the particulars given in the descriptive roll, and the disbursing officer should take every precaution against fraudulent personation. When the payee can write, his signature should, at the time of payment, be compared with that in the descriptive roll in the disbursing officer's possession.

Descriptive Rolls and life-certificates may be dispensed with in certain cases.

23. Descriptive rolls and life-certificates may be dispensed with in the case of natives of rank and pardah-posh ladies; but the disbursing officer will not on that account be exempt from the general responsibility which necessarily attaches to all payments.

Descriptive rolls will not be necessary in the case of pensions or grants on account of native religious or charitable institutions which are paid to panchs or committees or to the village patels, nor in the case of payees of allowances which have been declared to be continuable hereditarily.

Printed lists to be kept of sanctioned pensions and grants.

24. Each Commissioner will prepare under his signature lists in English and in the vernacular of all pensions and grants in each Collectorate in his Division and furnish printed copies thereof to the Mámlatdárs, the Collectors, their Assistants and Deputies, the Accountant General and to Government.

Where such lists have already been prepared under the signature of the Alienation Settlement Officer, new ones need not be prepared.

(G. N. No. 10347, *B. G. G.*, 1885, Pt. I., p. 1430.)

Monthly Correction Statements to be submitted to the Commissioner, Central Division.

25. A monthly statement of all proposed alterations in or additions to the said lists in consequence of decisions or orders passed during the preceding month affecting the same, shall be submitted by each Collector on such date as may be fixed for their submission in communication with the Accountant General to the Commissioner, Central Division, who shall cause the same to be promptly scrutinized in his office, and, after countersigning the same, shall cause duplicate thereof to be sent to the Accountant General with the orders of the Commissioner duly recorded thereon; and shall also direct that the lists in his own office and in the various offices in the Collectorate shall be corrected accordingly. The Accountant General shall also correct his lists in accordance with the duplicate copy of the statement so countersigned and forwarded to him.

No pension or grant shall be entered in, or struck out from, the accounts or the said lists, except with the previous sanction of the Commissioner.

Accounts to be kept by disbursing officers.

26. Disbursing officers will, on the 1st of May of each year, or as soon after as possible, prepare ledgers (peta-khátewahis) agreeably to the táluka forms* Nos. 21 and 22 contained in Hope's Manual of Accounts, and will keep books in the táluka forms Nos. 11 and 12 contained in that Manual, and will be held responsible for the correctness of the entries in these ledgers and books and for their being properly filled in from time to time.

* Nos. 23 and 24 in the revised edition.

Issue of sanads to payees of pensions and grants.

27. Sanads in the name of the Secretary of State for India in Council will be executed by the Collectors, as authorized in the Government of India's Resolution No. 684, dated 31st May 1878, Home Department (*vide* Government Resolution No. 3518, dated 14th June 1878, Judicial Department*), in favour of the payee or payees for the time being of every pension or grant in respect of which the issue of such sanads has been or may hereafter be sanctioned by Government. Such sanads will be issued once for all, and sanads already issued by Alienation Settlement Officers or by Collectors, or by any other officer authorized by Government in this behalf, shall be deemed to have been issued under this Rule.

The terms and conditions to be inserted in these sanads will be such as Government may from time to time authorize, or as may already have been so authorized.

Registers of sanads to be kept.

28. Registers of these sanads will be kept by each Collector, and a general register by each Commissioner.

Which shall be open to inspection, &c.

The said registers shall be open to public inspection during office hours, and extracts from the same shall be obtainable, subject to the same rules and to the payment of the same fees as apply to the case of registers of the documents mentioned in clause (*d*), section 90 of the Indian Registration Act, 1877.

Reference to Civil Court under section 6 of the Act.

29. Reference to the Civil Court under section 6 of the Act of any person claiming a right of succession to or participation in any pension or grant, or any other right relating to any pension or grant, shall be made in accordance with Rule 4 by the Collectors, granting to such person a certificate in the form of Appendix B. authorizing the Civil Court to try the case set forth in such person's claim.

Cash Alienation Lists.

All the work of examining and passing the monthly cash alteration lists should be done by the Commissioner, C. D., in the Alienation Branch of his office; and all Collectors should send their monthly cash alienation alteration statements to that office for approval and admission or orders. These will then be forwarded to the Account General. (G. R. No. 6967, 28th November 1885, R. D.)

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* Printed Part XIV. of this compilation, page 445.

ADDITIONAL ORDERS, AND OPINIONS.

Cash Allowance to Childless Widow.

A cash allowance continued to a childless widow "for life" must reasonably be held to refer only to such period as the widow remains unmarried after the decease of her first husband. The allowance is granted to her for her maintenance after his death, but when she re-marries, her maintenance devolves upon her second husband, and she has consequently no claim to an allowance from the State for the purpose. To avoid any possible doubt in any future cases which may arise when an allowance is given for the maintenance of a widow, it should be specified that such allowance is granted "for life or until re-marriage." (G. R. No. 9501, 26th December 1883, R. D.)

Entry of name of Posthumously Adopted Son, when right to adopt is recognised.

Memo. by L. R:—A cash allowance stood in the name of Daryabai, widow of Jayavantrao Shitole Deshmukh. But in January 1882 the Commissioner, acting in accordance with the above resolution, directed that the name of Babaji Khanderao should be susbtituted for that of the widow, he being a collateral who, in the state of the family as it then existed, would succeed as nearest heir on the death of the widow.

Since then, however, the widow has made a lawful adoption from within the watan family. It is evident from the form of sanad issued to district hereditary officers in the Poona district, in confirmation of the service commutation settlement made with them by Mr. Gordon, that Government have recognized the right of succession in virtue of such adoptions and therefore that the widow's adoptive son has a preferential claim to the allowance over collaterals. Had the adoption taken place previous to Jayavantrao's death, the allowance would have been entered in the adoptive son's name in lieu of his without the least hesitation. A boy adopted by a widow has, according to Hindu law, precisely the same status as if he had been adopted during the widow's husband's life-time. I am of opinion therefore that the adoptive boy's right should be recognized by the Collector, and that his name should now be entered in the records in lieu of Babaji Khanderao's. (G. R. No. 10054 of 22nd December 1884, R. D.)

Rule 15.—Entry of Gordon Settlement Cash Allowances.

Letter from the Commissioner, S. D.:—

"With regard to hereditary district officers' watans brought under Gordon's settlement, Government in their Resolution No. 4659—65-Confl. of 30th June last ruled as follows:—

'Pending any further judicial decision, the practice of entering the name of the male heir of the original grantee should continue and there should be no active interference with any holder of the property as long as a male heir is in existence.'

"2. From this I understand that although the name of the male heir of the original grantee is to be entered, Government is not to interfere with the *possession* or *enjoyment* of the *watan property* by whomsoever it may be held so long as a male heir is in existence. Watan property includes cash allowances. It, therefore, follows that their payment to persons in enjoyment of them for a long period is not to be interfered with, notwithstanding the fact that they may be standing in the Government accounts in the name of the male heir. Under No. 15 of the Rules under the Pensions Act, however, these allowances are to be paid 'only to those persons whose names have been authorizedly entered in the records as the payees thereof or to their duly empowered attorneys,' &c., &c. The names of the actual holders not being entered in Government accounts there will be an account objection to payments being made to them. I, therefore, propose that the name of the actual holder be entered after that of the male heir as recipient of the allowance, *e.g.*, Ramchandra Vithal, recipient Govind Vishvanath. Such entries already appear (*vide* margin) in the Cash Alienation Lists. It will of course be stated in the column of remarks that the allowance will be continued only so long as the male heir of the original grantee is in existence and at the time of every payment the production of the life certificate of the person in whose name the allowance stands will be insisted upon."

Ratnágiri.—Varshásan.
1335 Ganesh Rámchandrabhat Thatte for Ramchandra Vasudev Thatte.

Bijápur.—Varshásan.
108 Bhimbhat bin Visvanathbhat (*N.B.*—Out of this sum of Rs. 57 a maintenance allowance of Rs. 24 per annum is to be paid to Kashibai, widow of Apábhat (eldest son of Bapubhat), during her life-time as per instructions from the Revenue Commissioner, S. D., No. 1688 of 24th October 1861).

Kolába.—Allowances in lieu of inám land, Káji Shábudin valad Káji Ibrahim, his mortgagee Bhikaji Ramchándra.

RESOLUTION.—The course proposed by the Commissioner, S. D., which is supported by the Commissioners, C. and N. Divisions, is approved and sanctioned. (G. R. No. 176 of 8th January 1887, R. D.)

Attachment of Transferable Cash Allowance.

Memo. by L. R:—"I do not think that Government can raise any objection to the attachment by the Civil Court of the allowance, which by the sanad is to be continued without objection or question on the part of Government as to the rights of any rightful holders thereof, whether such rights shall have accrued by inheritance, adoption, assignment or otherwise.

"2. The allowance is not protected from attachment by Section 11 of the Pensions Act (XXIII of 1871), for it is not a pension granted or continued by Government on political considerations on account of past services or present infirmities or as a compassionate allowance." (G. R. No. 8644 of 24th October 1885, R. D.).

Devasthán Cash Allowance liable to attachment—No Certificate necessary to suit for—

Report by the Acting Remembrancer of Legal Affairs on the question whether a suit between the claimants to a devasthán cash allowance requires a certificate under the Pensions Act, and whether in the absence of such certificate execution can be withheld by the Collector.

2. The cases noted in the margin are authorities which appear to support the Subordinate Judge who decided the suit, in his view that the Pensions Act would not bar the suit. There has never, I think, been any decree precisely on the point in the Bombay High Court. But I think it very probable the question would in this Presidency be decided on the same grounds as in Madras.

I. L. R., 2, Mad., 294.
" 5, " 302.
" 11, " 283.

3. Pensions and grants imply pensioners and grantees, personal recipients of the bounty of Government, and Government alone have a right to decide as to the distribution of that bounty.

*I. L. R., 1, Bom. 75.

4. But religious *endowments* are at least in theory impersonal, and are either for the support of some services deemed religious, or the maintenance of some building regarded as sacred. The object of the bounty is not a man at all, although the fund must necessarily be administered by some trustee or manager who no doubt practically exercises proprietary rights over it. Government have no particular interest in seeing that such trustee performs the duties of his trust. If he neglects them or wastes the funds, those interested might bring a suit under section 539, Civil Procedure Code, to compel performance, and the Courts might appoint some other trustee or manager, and Government would pay the cash allowance to the trustees so appointed.

5. Religious endowments are no doubt inalienable under Hindu Law and also, if they take the form of land, under Bombay II of 1863, section 8, clause 3.

I. L. R., 5, Bom. 393.

6. But the restriction applies rather to the *corpus* than to the revenue, or management would be impossible. Alienation is perfectly justifiable within certain limits as to time, justifying necessity and provision for performance of the duties, and Government can hardly in the case of a Hindu religious endowment be in a position to dispute these points with the recipients, even if Government had any interest in doing so.

23. Weekly Reporter, 253 (Privy Council case).
I. L. R., 6, Bom. 596.
" 6, " 298.
20. Weekly Reporter, 471.
12. B. H. C. R., 214.
6. " 250.

7. I must also note that in a very recent decision it has been held that the Pensions Act would not restrict the jurisdiction of the Courts to entertain suits relating to allowances for which Government are admittedly liable to some one or other. The Act is always construed strictly,* and according to the Allahabad High Court, even if the cash allowance were a pension, no certificate would be necessary to a suit between rival claimants thereto, if Government admitted that some one or other was entitled to it. In the case of a devasthán cash allowance, it would probably be held that it was neither a pension nor a grant within the meaning of sections 4, 5 and 6 of the Pensions Act, but an endowment. Government do not dispute their liability to pay the allowance. It seems to be utterly immaterial to Government who is the actual payee.

I. L. R. X, All., 396.

*I. L. R., 4, Bom., 437.

8. It could not for a moment be urged that section 11 of the Pensions Act would exempt the allowance in question from attachment. That section refers to *pensions* granted on political considerations on account of past services or present infirmities or as a compassionate allowance. It has no reference to any but *personal* grantees. (G. R. No. 7099 of 20th September 1889, R. D.)

Pensions Act: Rulings of the High Court on the—.

Toda giras haks are within the scope of the Pensions Act, 1871, and a suit in respect of them must be brought under certificate required by section 6.

The word *hak*, "allowance" or "fee" is equivalent to the word "right" in section 3. (I. L. R. 1 Bom. 203).

Section 4.—Pensions Act applies to Suits between rival Claimants, not only to Suits against Government, but not to Lands.

Section 4 of the Act debars the Civil Court from taking cognizance of any suit relating to pension, &c., whether Government is a party to it or not, without a certificate. Section 6 enables the Revenue Officer to refer the parties to the Civil Court for the determination of their respective interests in the income or other benefit, which the executive will, however, still, as against either or both of the litigants, be at liberty to allow or to withhold.

Lands held free of assessment under a grant from Government, bestowing the land, not merely the revenue, are not within the scope of the Act. (I. L. R. 1 Bom. 75.)

Toda Giras Hak is not exempt from attachment.

A *toda giras hak* is not exempted from attachment under a decree of a Civil Court by Section 11 of the Pensions Act. The word pension in section 11 of the Pensions Act is used in its ordinary and well known sense, *viz.*, that of a periodical allowance or stipend granted in this respect of any right, privilege, perquisite or office but on account of past service or particular merits, or as compensation to dethroned princes, their families and dependants. (I. L. R. 4 Bom. 432.)

Suit to recover Percentage on the Revenue.

A plaintiff alleging that as hereditary deshmukh of certain mahâls he was entitled to be paid directly by the ryots of those mahâls a percentage on the revenue thereon directly assessed, sued to recover a portion of such percentage which had been collected along with the revenue and retained by the Government. *Held* that the claim was "a suit relating to a grant of money or land revenue" and as such excluded from the jurisdiction of the Civil Courts by section 4 of the Pensions Act. (I. L. R. 2 Bom. 9, S. C. L. R. 4 I. A. 119.)

Pensions Act to be strictly construed.

Though sanadi grants in inám, saranjám, &c., are, generally speaking, alienations of land revenue and not grants of land, this is not invariably the case. The ownership in the soil passes if words are employed in the grant which expressly, or by necessary implication, indicate an intention of transfer of such ownership.

The Pensions Act, as an arbitrary enactment, should be construed strictly, and the words "grant of money or land revenue" do not include a grant of the proprietorship of the soil. (I. L. R. 1 Bom. 523.)

Political Pension probably Impartible; Certificate necessary for Suit for its partition.

A saranjám is ordinarily impartible, and, *semble*, a political pension granted in substitution of a resumed saramjám is so likewise. The Pensions Act prevents the Court declaring such a pension partible, unless the Collector should authorize it to do so; and the fact that the Collector authorizes a suit for maintenance out of such a pension affords no ground for presuming that he authorizes a suit for partition of the pension. (I. L. R. 2 Bom. 346.)

Suit for grant of Land Revenue.

A suit in a Civil Court by a hereditary deshmukh relating to a grant of land revenue is prohibited by the Pensions Act XXIII of 1871. (I. L. R. 6 Bom. 209.)

Section 4 applies to Toda Giras, and not merely to rights in nature of Pensions.

A suit against Government upon an alleged agreement by Government to pay money from its treasury in lieu of *toda giras hak* is prohibited by section 4 from being entertained, whatever may have been the consideration for such grant, or the nature of the payment, claim, or right for which such grant may have been substituted. *Quære*, whether Government is bound perpetually to collect *toda giras* for the girásiás, and whether specific performance of such a contract could be enforced. (I. L. R. 4 Bom. 437). This was affirmed on appeal. (I. L. R. 5 Bom. 408, P. C.). There is no reason, either in the language of the Act itself or in any antecedent legislation, for construing section 4 as applicable only to rights in the nature of pensions. (S. C. L. R. 8, I. A. 77).

Jághírs generally within the Pensions Act.

A grant in jághír or saranjám is very rarely grant of the soil. As a general rule they are grants of land revenue only to which the Pensions Act is applicable (*vide* page 231 of Printed Judgments of 1882, and also Appendix A of Part VI of this Compilation.)

Rules under the Act not retrospective.

No. 16 of rules under the Pensions Act does not apply to rights acquired to pensions before the Act came into force, as there is nothing to show that the legislature intended it to have retrospective effect. Lalbhai Sambhulal, B. H. C. P. J., p. 202 for 1889 per Scott and Jardine, J.J.

Suit requiring Certificate, if brought without one, is without jurisdiction.

When the mortgagee of a desaigiri *hak*, without obtaining the Collector's certificate under section 6 of Act XXIII of 1871, sued the representative of the mortgagor to enforce the mortgage-debt by a sale of the *hak*, and obtained a decree without jurisdiction: *Held* that the proceedings in the suit were without jurisdiction, and that the decree could not constitute the basis of any title or estop the representative from suing for a declaration of his right to the *hak* as a life-holder as against the purchaser at the auction sale held in execution of the decree. (I. L. R. 9 Bom. 285).

Inámdár's claim to Ábkári Taxes is barred by the Pensions Act.

An Inámdár, relying on a grant by the Peshwa's Government of the villages with water trees, grass, wood, quarries, mines, buried treasure, present and future cesses and taxes and assessments, contended that the revenue derived by Government from the licenses granted for tapping trees in the village was a tax within the contemplation of the grant: *Held* that the case falls under the Pensions Act XXIII of 1871 and the Court is therefore ousted of its jurisdiction. (Janardan Bhasker Joshi *vs.* the Secretary of State for India. Appeal No. 85 of 1888, judgment date 10th March 1890).

APPENDIX A.—(See Rule 22.)

Form of Descriptive Roll.

Running Number.	Number in the Alienation List or Petha Khátáwahi.	Name.	Caste or Sect.	Residence.	Personal identification.	Height.	Age at the date of preparing the Roll.	Monthly, Quarterly, Half-yearly, or yearly, Amount.	How long continuable.	Signature of the party whose Descriptive Roll is prepared.	Signature of Witnesses of identification.	Signature of the Officer before whom the Descriptive Roll is taken.	Date of preparing the Rolls.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

PAYMENTS.

When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.	When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.	When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.

APPENDIX B.—(See Rule 29.)

Form of Certificate.

Whereas *A. B.* of is desirous of preferring a claim against *C. D.* of to establish his right to

(*here state clearly the nature of the claim*)

This is to certify that I, *E. F.*, Collector of , do hereby allow, under section 6 of the Pensions Act, 1871, that the said claim may be tried by any Civil Court otherwise competent to try the same.

(Signed) *E. F.*,
Collector.

Dated at
this day of 18 .

Seal of the Collector.

PART X.

RULES BY THE GOVERNMENT OF INDIA TO REGULATE THE SUPPLY AND SALE OF STAMPS OF ALL DESCRIPTIONS.

(Notn. No. 5422, *B. G. G.*, 1886, Pt. I., p. 644, re publishing G. of I. Notn. No. 1596 of 28th June 1886.)

The following rules laid down by the Government of India to regulate the custody, supply and sale of stamps of all descriptions, *viz.*, General stamps used to denote the duties payable under the Indian Stamp Act, No. I of 1879; Court-fee stamps used to denote the fees payable under the Court Fees Act, No. VII of 1870; Telegraph stamps and Postage stamps, are published for general information. Those portions of the rules which apply to General and Court-fee stamps are adopted and issued by His Excellency the Governor in Council under the authority conferred on him by section 55 of the Indian Stamp Act, 1879, and section 27 of the Indian Court Fees Act, 1870, respectively:—

CENTRAL DEPÔTS.

1. There shall be three central depôts for stamps of all descriptions in charge of the Superintendents of Stamps at Madras, Bombay and Calcutta respectively. These central depôts shall maintain a stock of stamps sufficient for two years' consumption. The Superintendents of Stamps in Madras and Bombay shall, for this purpose, forward, not later than the last week in September in each year, indents for the supply of the various descriptions of stamps required in the following year for the territories dependent on them for the supply of stamps to the Superintendent of Stamps, Calcutta.

* * * * * * * *

3. Stamps for the Presidency of Bombay, including Sind, the Berars, the Central Provinces, and local depôts subordinate to Bombay, shall be supplied from the central depôt, Bombay, on the indent of officers in charge of local depôts.

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5. The Superintendent of Stamps, Bombay, on receiving an indent from a local depôt, shall have the indent examined to acertain that the indent is such as to insure the local depôt having a proper supply, and may comply with the indents in full or in part, as he thinks fit. If he thinks that the indent should be increased, he should request the officer who submitted the indent to submit a supplementary indent. The Superintendent of Stamps should also, if the monthly statements of transactions (Rule 33) show that the balance of any kind of stamp in any local depôt is falling too low, call the attention of the officer in charge to the fact. The Presidency Post Offices of Calcutta, Madras and Bombay may indent for supplies of the central depôts.

LOCAL DEPÔTS.

6. Every treasury throughout India, including those attached to political and salt agencies, shall be a local depôt for the custody and sale of stamps of all descriptions. Local Governments may establish local depôts at places where there is no Treasury.

7. Each local depôt shall, unless the Local Government otherwise directs, maintain a supply of stamps equal to the probable consumption of five months. Local Governments may direct that the supply to be maintained either generally or in respect of any particular kind of stamp or in certain local depôts shall be equal to the probable consumption of such other period as they deem expedient.

8. As soon as the number of stamps in the local depôt falls below the number issued from the depôt in the preceding six months, the officer in charge of the depôt shall prepare an indent for a supply equal to the probable consumption of three months. The indent shall show in separate columns for each denomination of stamp of which a supply is required the total of the balance in the local depôt and any branch* depôts subordinate to it, the quantity sold in the preceding six months and the quantity indented for, which should be approximately one-half of the quantity sold in the preceding six months. The periods of 'six months' and 'three months' of this rule may, like that of five months in Rule 7, be altered by Local Governments to such other periods as they may deem expedient. This indent will be forwarded direct to the Superintendent of Stamps, Madras, Bombay or Calcutta, as the case may be; but the Local Government of any province may direct that the indents shall be forwarded through any other officer, such as the Superintendent of Stamps of the province, or that a copy of the indent shall be forwarded to such officer.

9. If the supply of stamps in any local depôt should run short before the receipt of the supply from the central depôt, the officer in charge of the local depôt should indent for a supply from a neighbouring depôt, sending a copy of the indent to the Superintendent or Commissioner of Stamps of the province, or such other officer as the

* For branch depôts the figures of the latest periodical return received at the local depôt showing details of stamp balances may be used for the purpose of calculating the total required for entry in each column.

Local Government may direct. It is the duty of the Superintendent of Stamps, Madras, Bombay or Calcutta, to report to the Local Government (or such authority as the Local Government may direct), in the case of general and Court-fee stamps,

* * * any case in which it may come to his knowledge that the stock of stamps in any local depôt of any description has fallen below the prescribed amount.

10. As soon as possible after the arrival of a supply of stamps from the central depôt or from another local depôt, the officer in charge of the local depôt shall have the boxes or packets opened in his presence, and the contents of each box or packet counted either by himself or in his presence immediately on being opened. The number of stamps received shall be compared by the officer in charge with the number in the invoice, and a receipt shall be sent as soon as possible to the officer who despatched the stamps.

11. Local Governments may issue such orders as may be thought necessary regarding the detailed counting of stamps received in a local depôt, and as to the descriptions of stamps which the officer in charge must count with his own hands. Such orders may include instructions that a certain percentage only of sealed packets marked as containing a certain number of stamps need be opened and counted at the time of receipt, and the remainder, if the percentage opened are all found correct, left with seals unbroken to be counted as they are required on being given out from double lock. The officer in charge is responsible for observing any such instructions, and for satisfying himself as to the number of stamps received before signing the receipt.

12. If any of the stamps received are found to be unfit for issue, they should be at once returned to the Superintendent of Stamps. Stamps which are through any accident rendered unfit for issue at any time after receipt should be similarly returned to the Superintendent as soon as their unfitness is discovered. The necessary entries on account of stamps so returned should be made in the monthly statement (Rule 33), and in the *plus* and *minus* memoranda (Rule 35).

13. Immediately after the stamps received have been counted, they shall be placed in proper receptacles in the store under double lock, arranged in parcels or packets containing known quantities, the amount of each denomination being entered in a register maintained to show the receipts and issues to and from the store under double lock.

14. The treasurer, or such other officer as the Local Government may direct, shall be the *ex-officio* vendor of all descriptions of stamps in each local depôt. Sales to the public or to licensed vendors shall not be made direct from the stores under double lock, such sales being made by the *ex-officio* vendor from the supply entrusted to him for this purpose to be kept by him under single lock, as prescribed in the following rules.

15. The stock to be made over to the *ex-officio* vendor to be kept by him under single lock should ordinarily be sufficient for the probable demand of one month. On a fixed date near the beginning of each month the *ex-officio* vendor shall prepare an indent for the quantity required for the month in a form showing the balance in his hands, an average month's consumption, and the quantity required. When this indent is approved by the officer in charge, who should examine the balance under single lock, and ascertain that the quantities shown agree with the quantities shown in the indent, he shall give out the quantity required from the store under double lock. The same procedure shall be followed if any stamps should be required at any intermediate date. Local Governments may reduce the period of one month mentioned in this rule to one week or any other period less than a month, if they consider this desirable with reference to the amount of the treasurer's security or for any other reason.

16. From the stock so made over to his charge and kept by him under single lock, the *ex-officio* vendor shall sell stamps to the public and to licensed vendors for cash. He shall keep in such language as the Local Government may direct an account of the daily sales for each of the four descriptions of stamps in a form showing for each denomination the balance in his hand at the beginning of the day, the quantity sold during the day, and the balance in his hand at the end of the day. He shall pay daily into the treasury the cash received by him for stamps sold, the amount realized on account of each of the four descriptions of stamps—namely, General, Court-fees, Postage and Telegraph—being paid in separately. The account of daily sales should be inspected every day by the officer in charge of the depôt.

17. The rules regulating the grant of discount and the grant of licenses to licensed vendors for the sale of General and Court-fee stamps vary in different provinces, and are prescribed by Local Governments, subject to the general rule that no change in the rates of discount shall be made without the previous sanction of the Governor General in Council.

18. Local Governments may direct that the sales to the public of General and Court-fee stamps by *ex-officio* vendors shall be limited to stamps of a value higher than a named amount, the sale to the public of stamps of lower value being left to licensed vendors.*

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23. The officer in charge of every post office, receiving office, tahsil, thána, and police-station at which letters are received for despatch, and every person licensed under the rules framed under the Stamp Act, 1879, to sell General stamps, are required to keep a supply of ordinary postage stamps for sale to the public sufficient for the probable demands of one week. To such persons ordinary postage stamps, except soldiers' envelopes, are sold from local depôts for cash on the same conditions as to quantity as those prescribed in the preceding rule; and on such sales discount at the rate of quarter of an anna in the rupee is allowed.

23 A. The officers in charge of post offices, receiving offices, tahsils, thánas and police stations at which letters are received for despatch, are also required to keep a supply of one-anna revenue stamps for sale to the public. To such officers one anna revenue stamps are sold from local depôts on the same conditions as to quantity as those prescribed in Rule 22. On such sales discount at the rate of one-half anna in the rupee is allowed. (Notn. No. 5721, *B. G. G.*, 1886, Pt. I., p. 666, republishing G. of I. Notn. 2036 of 27th July 1886.)

"RESOLUTION.—With a view to make one-anna Revenue or Receipt Stamps as widely available to the public as possible, the Governor General in Council directs that the Post Office as a Department shall undertake the sale of such stamps in the same way as postage stamps and prescribes the following rules on the subject:— (G. R. No. 5989, 21st Aug. 1886, R. D., republishing G. of I. Resolution, F. & G. Department, No. 2035, 27th July 1886.)

(1) Officers in charge of Post Offices and other postal officers who are required to keep a supply of ordinary postage stamps for sale to the public under Rule 23 of the Rules issued by Resolution No. 1596, dated 28th June 1886, are required also to keep a supply of one-anna revenue stamps for sale to the public.

(2) Those officers shall obtain supplies of, sell and account for, the one-anna revenue stamps in the same manner and subject to the same conditions (except as to the rate of discount) as ordinary postage stamps.

(3) The rate of discount on purchases by these officers of one-anna revenue stamps shall be one-half anna in the rupee."

BRANCH DEPÔTS.

26. Every subordinate, branch, or tahsil treasury shall be a branch depôt for the sale of stamps of all descriptions.

27. The sub-treasurer, or such other officer as the Local Government may direct, shall be the *ex-officio* vendor of stamps at a branch depôt.

28. The officer in charge of the branch depôt shall obtain his supplies from the local depôt to which the branch depôt is subordinate in the same manner as the *ex-officio* vendor at the local depôt obtains his supplies, except that the indent and the stamps must be sent by post or messenger to and from the local depôt; and that the examination of the balance in hand and the comparison of the amounts shown with those shown in the indent shall be done by the officer in charge of the branch depôt.

The *ex-officio* vendor shall obtain his supplies from the officer in charge of the branch depôt in the same manner as the *ex-officio* vendor at the local depôt obtains his supplies from the officer in charge.

29. The supply to be kept in a branch depôt should be equal to the probable demand for three months; but Local Governments may direct that the supply shall be equal to the demand of any other period instead of three months which they may consider expedient. The stock should be kept up to this amount by indenting and obtaining supplies from the local depôt from time to time as may be necessary.

30. Local Governments shall fix the period a supply sufficient for which shall be kept under single lock by the *ex-officio* vendor, and the remainder of the stamps in the branch depôt shall be kept under double lock of the officer in charge of the branch depôt and of the *ex-officio* vendor, and given out to single lock as required.

31. Sales from branch depôts will be made subject to the same rules as those from local depôts.

NOTE.—Rules 19 and 20 relate to Telegraph stamps. No. 21 relates to Service Postage stamps. Nos. 22, 24 and 25 to ordinary Postage stamps.

RETURNS TO AND BY THE SUPERINTENDENT OF STAMPS AND ACCOUNTANTS GENERAL.

32. On the last open day of September and March each year, the officer in charge of each local depôt will count, or have counted in his presence, the stamps in the depôt, both those under double lock and those under single lock, and will require the officers in charge of the branch depôts subordinate to him similarly to count the stamps in the branch depôt. He will attach to the monthly statements for September and March rendered to the Superintendents of Stamps, Madras, Bombay or Calcutta, a certificate in the following form:—

"I do hereby certify that I have personally examined and counted, or had counted in my presence, the stamps of all descriptions in store in this local depôt on the $\frac{\text{September}}{\text{March}}$ 18 and found the value of each description to be as stated in the margin.* Also that I have received certificates from the officers in charge of the subordinate branch depôts that they have similarly counted the stamps in the branch depôts on the last day of the month of $\frac{\text{September}}{\text{March}}$ of which the accounts are incorporated in the Head Treasury accounts, and that these certificates show the value of each description of stamps to be as stated in the margin.†

	Rs.
* General	
Court-fees	
Telegraph	
Postage	

	Rs.
† General	
Court-fees	
Telegraph	
Postage . ..	

The total values of stamps in this depôt and the branch depôts, as found by the above certified examination, are therefore—

	Rs.
General	
Court-fees	
Telegraph	
Postage	

which amounts agree with the balances shown in the monthly statement for $\frac{\text{September}}{\text{March}}$ to which this certificate is attached. *If there is any difference, add* 'with the exception of the following differences:—

.... the

explanation of which is as follows:—

.....'

33. Monthly statements showing the receipts and issues of each local depôt, including the transactions of the subordinate branch depôts, shall be prepared by the officer in charge of the local depôt and forwarded in the first week of the succeeding month to the Superintendent of Stamps, Madras, Bombay or Calcutta, separate statements being prepared for General stamps, Court-fee stamps, Telegraph stamps, and Postage stamps.

These statements shall show for each denomination of stamp the values of the balance in hand at the beginning of each month, of the quantities received from the Superintendent of Stamps or other officer during the month, of the quantity sold during the month, and of the balance in hand at the end of the month. These statements may be forwarded to the Superintendents of Stamps, Madras, Bombay or Calcutta, either direct, or, if the Local Government so order, through any officer named by the Local Government.

34. These statements shall be checked by the Superintendents of Stamps by comparison with previous statements and the accounts of the central depôt, and shall be used by them to check indents and to watch the balances in the local depôts.

(Notn. No. 1949, *B. G. G.*, 1887, Pt. I., p. 272.)

35. Treasury Officers and other officers in charge of local depôts shall forward to the Accountant General or Comptroller such returns of the receipts and sales of stamps as the Comptroller General may direct, in the form of *plus* and *minus* memoranda or otherwise.

36. The Superintendents of Stamps, Madras, Bombay and Calcutta, shall send to the Accountant General or Comptroller such accounts of the transactions of the central and local depôts as the Comptroller General may prescribe.

37. They shall also every six months intimate to the Accountant General or Comptroller for comparison with the amounts shown in the returns received from Treasuries and other local depôts under Rule 35, the receipt of the certificates prescribed in Rule 32, and the amount of stock certified to be in balance in each local depôt.

* Stamps for copies are included under Court-fee stamps.

38. The Comptroller General shall prescribe such rules as he considers necessary for the disposal of the accounts mentioned in the foregoing rules, and for the check of the receipts, issues and sales.

39. The Local Governments of Madras, Bombay and Bengal shall arrange for a periodical verification by counting of the stock of stamps in the respective central depôts. The verification shall be carried out in the manner and form to be prescribed by the Comptroller General, to whom the result will be reported.

40. The Superintendent of Stamps, Madras, Bombay and Calcutta, shall forward every month to the Director General of the Post Office, statements showing the balances and receipts in the central depôt, and the issues to each local depôt of Postage stamps during the month. They shall also send monthly to the Comptroller of the Post Office a statement of the sales during the past month of the several denominations of Postage stamps in the local and branch depôts subordinate to them. The Accountant General or Comptroller will, with his monthly account current with the Examiner of Telegraph Accounts, forward a statement showing the total realisations at each Treasury from the sales of Telegraph stamps during the month. (Notn. No. 1973, *B. G. G.*, 1889, Pt. I., p. 885.)

(1) RULES MADE BY THE GOVERNOR GENERAL IN COUNCIL UNDER SECTIONS 9, 15, 17, 32, 51, and 56, OF THE INDIAN STAMP ACT, 1879.

3rd March 1882.

In exercise of the powers conferred by sections nine, fifteen, seventeen, thirty-two, fifty-one and fifty-six of the Indian Stamp Act, 1879, the Governor General in Council is pleased to make the following rules in supersession of the rules promulgated by Notifications—

No.	1288,*	dated the 3rd March 1882.
,,	2955*	,, 1st December 1882.
,,	1444*	,, 16th March 1883.
,,	3515*	,, 16th October 1885.
,,	434*	,, 28th January 1886.
,,	590	,, 5th May 1886.
,,	1611*	,, 25th June 1886.
,,	2727	,, 24th August 1886.
,,	5700*	,, 26th October 1887.
,,	1662*	,, 14th November 1890.
,,	5881*	,, 19th December 1890.

CHAPTER I.—*Preliminary.*

(Notn. No. 3622, *B. G. G.*, 1891, Part I., p. 425, republishing G. of I. Notn. No. 2170 of 22nd May 1891.)

1. These Rules shall come into force throughout British India on the date of this Notification.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(*a*) Impressed Stamps, including—

Impressed Sheets,—that is to say, sheets of paper bearing the impression of stamps of different values engraved thereon and sold to the public for use by them in accordance with these Rules; and

Impressed labels, to be affixed and impressed by Government officers as directed in Chapter III of these rules.

(*b*) Adhesive Stamps sold to the public for use by them in accordance with these rules.

CHAPTER II.—*Of Impressed Sheets.*

4. (*a*) Hundís other than hundís which can be stamped with an adhesive stamp under section 10 of the said Act shall be written as follows:

(1) Hundís payable otherwise than on demand, but not more than one year after date or sight, and for amounts not exceeding Rs. 30,000 in individual value, on impressed sheets bearing the word Hundí;

* Republished at pages 195 to 197, 1048, 246, 1229-30, 92, 549, 886 and 887, 1144 and 1330 of Part I of the *Bombay Government Gazette* dated respectively the 16th March 1882, 7th December 1882, 22nd March 1883, 22nd October 1885, 4th February 1886, 1st July 1886, 3rd November 1887, 20th November 1890, and 25th December 1890.

(2) Hundís exceeding Rs. 30,000 in individual value, and Hundís payable at more than one year after date or sight, on paper supplied for sale by the Government, and to which labels have been affixed by one of the officers mentioned in rule 10 (*b*), or by the Superintendent of Stamps, Calcutta, and impressed by him in manner provided by rule 10.

(*b*) Every sheet of such stamped paper shall be of a size not less than $8\frac{5}{8} \times 5\frac{1}{8}$ inches, and no plain paper shall be joined to it.

(*c*) The provisions in rule 7 (*a*) as to the use of two or more sheets of stamped paper when a single stamp of the required value is not procurable apply also to hundí stamps used under this rule.

* 5. Promissory notes and bills of exchange shall, except as provided by section 10 of the said Act and by these rules, be written on plain impressed sheets or on impressed sheets bearing the word 'Hundi.'

6. All other instruments chargeable with duty may be written on impressed sheets (other than impressed sheets bearing the word 'Hundi'), and, except as provided by section 10 of the said Act and by these rules, shall be so written.

7. (*a*) When two or more impressed sheets are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

(*b*) When a single sheet (other than an impressed sheet bearing the word 'Hundi') is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument; provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet.

(*c*) When any instrument of transfer of shares in a company or association is written on an impressed sheet, and the value impressed thereon is subsequently (in consequence of a rise in the market value of such shares) found to fall short of the amount of duty chargeable under article 60 (*a*), schedule I of the Act, one or more adhesive 'Share Transfer Stamps' hereinafter mentioned may be used to make up the required amount.

8. The duty payable on any instrument chargeable with a duty of one anna may be denoted by a coloured impression marked on a skeleton form of

* Instructions in Resolution No. 6623, dated 15th December 1887, Department of Finance and Commerce, direct the use of impressed sheets for promissory notes drawn or made in British India and chargeable with a duty of more than one anna, except hose chargeable with a duty of 6, 10 or 12 annas, for which hundí stamps are to be used. (B. G. R. No. 302 of 16th January 1888, R. D.)

such instrument by the Superintendent of Stamps at Calcutta, Bombay, Madras, Rangoon or Lahore, or by the Commissioner of Stamps at Allahabad.

CHAPTER III.—*Of Impressed Labels.*

9. Impressed labels may be used for the following instruments and counterparts thereof, namely,—

(1) Administration-bonds;

(2) Affidavits;

(3) Appointments made in execution of a power;

(4) Articles of association of a company;

(5) Articles of clerkship;

(6) Bills of lading;

(7) Charter-parties;

(8) Declarations of trust;

(9) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property;

(10) Leases printed or lithographed in an Oriental language, when the written matter filled in does not exceed one-fourth of the printed matter;

(11) Memoranda of association of companies;

(12) Notes of protest;

(13) Policies of insurance;

(14) Revocations of trust;

(15) Share warrants issued by a Company in accordance with section 30 of the Indian Companies Act, 1882 (provided that any such share warrant issued previous to the 14th November 1890 and bearing an adhesive share transfer stamp denoting the full amount of duty payable on the warrant shall be held to have been duly stamped);

(16) Warrants for goods;

and for the following, when written in any European language, provided that any instrument written in any European language other than English shall have attached to it a translation in the English language:

(17) Agreements or memoranda of agreements which, in the opinion of the officer empowered to affix the label, cannot conveniently be written on impressed sheets

(18) Instruments engrossed on parchment and written in the English style, which, in the opinion of such officer, cannot conveniently be written on impressed sheets;

(19) Awards;

(20) Bills of exchange payable otherwise than on demand and drawn in British India;

(21) Bonds;
(22) Certificates of sale;
(23) Composition-deeds;
(24) Conveyances;
(25) Instruments imposing a further charge on mortgaged property;
(26) Instruments of apprenticeship;
(27) Instruments of co-partnership;
(28) Instruments of dissolution of partnership;
(29) Instruments of exchange;
(30) Instruments of gift;
(31) Instruments of partition;
(32) Leases;
(33) Letters of license;
(34) Mortgage-deeds;
(35) Powers-of-attorney;
(36) Reconveyances of mortgaged property;
(37) Releases;
(38) Settlements;
(39) Transfers of the description mentioned in Article No. 60, clauses (*b*), (*c*) and (*d*) of the First Schedule of the said Act.

10. The following officers are empowered to affix these labels to the instruments mentioned in rule 9, namely,—

(*a*) the Collectors of Calcutta and Karáchi and the Huzúr Deputy Collector, Karáchi, when the Collector is absent from head-quarters;
(*b*) the Superintendents of Stamps at Madras, Bombay, Lahore, Rangoon, Moulmain and Akyab;
(*c*) the Commissioner of Stamps, North-Western Provinces and Oudh;
(*d*) the Superintendent of Stamps (Political Resident), Aden.

11. (*a*) Every such officer shall, upon any instrument mentioned in rule 9 being brought to him before it is executed, and application being made to him for that purpose, affix thereto a label or labels of such value as the applicant may desire and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face of the label or labels the date of impressing the label or labels before returning the instrument to the applicant. In the case of instruments written on parchment, the labels must be further secured by metallic eyelets.

(*b*) When the stamp duty amounts to five rupees or upwards, such officer or some principal assistant of such officer appointed by the Local Government from time to time in this behalf, shall further write on the face of the label or labels his initials, and, when the stamp duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument, immediately under the labels.

In Calcutta the Deputy Collector and the Superintendent of the Stamp Department of the Collector's Office as well as the Collector are empowered to initial any label or labels, and to attach their usual signatures to any instrument immediately under the labels.

The Superintendent in the office of the Superintendent of Stamps, Lahore, is empowered to initial any label or lables, and to attach his usual signature to any instrument immediately under the lables, during the absence of the Superintendent of Stamps from Lahore.

12. (*a*) The payment of duty on instruments (other than instruments which, under section 10 of the said Act, may be stamped with adhesive stamps) executed out of British India and requiring to be stamped after their receipt in British India, shall be indicated only by impressed labels.

(*b*) When any such instrument is taken to the Collector under section 17 of the said Act, the Collector, unless he be Collector of Calcutta or Karáchi, shall send the instrument to one of the officers mentioned in rule 10, remitting the amount of duty paid in respect of such instrument; and such officer shall stamp the instrument in the manner prescribed by Rules 11 (*a*) and 11 (*b*), and return the same to the Collector for delivery to the person by whom it was produced.

CHAPTER IV.—*Adhesive Stamps.*

13. Bills-of-exchange, payable otherwise than on demand and drawn in sets, when the amount of stamp duty does not exceed one anna for each part of the set, may be stamped with adhesive stamps.

14. Except as otherwise provided in these rules, the adhesive stamp used to denote the duty of one anna shall bear the words "one anna."

15. The following instruments, when stamped with adhesive stamps, shall be stamped as follows:

(*a*) Bills-of-exchange, cheques, and promissory notes drawn or made out of British India, and chargeable with a duty of more than one anna, with adhesive stamps bearing the words "Foreign Bill."

(*b*) Transfers of shares of public companies and associations, with adhesive stamps bearing the words "Share Transfer."

(*c*) An entry as an advocate, vakil, or attorney on the roll of any High Court with an adhesive stamp bearing the word "Advocate," "Vakil," or "Attorney."

(Such stamp shall be affixed under the superintendence and responsibility of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps and account to him for it. The gazetted officer who affixes the stamp shall write on the face of it his usual signature and the date of signature before parting with the instrument).

(*d*) Notarial Acts, with adhesive Foreign Bill stamps bearing the word "Notarial" printed over them.

CHAPTER V.—*Miscellaneous.*

16. When it is necessary, under section 15 of the said Act, to denote upon one instrument the

payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

17. Every payment made under section 30 of the said Act shall be made in cash.

18. The Collector may require every person claiming a refund or renewal under Chapter VI. of the said Act, or his duly authorized agent, to make an oral deposition on oath or affirmation, or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his agent.*

19. Any Magistrate convicting or trying an offender under Chapter VIII. of the said Act may grant to any person who may have contributed to the conviction, a reward within a limit to be fixed by the Local Government.

RULES BY THE GOVERNOR IN COUNCIL UNDER SECTION 55.

The following Rules made by the Government of Bombay under section 55 of the Indian Stamp Act, No. I of 1879, are published for general information:—

1. For the purposes of these Rules stamps are divided into three classes:— (G. N. No. 5311, *B. G. G.*, 1881, Pt. I., pp. 505 to 507.)

Class I., *Impressed stamps*—that is to say, sheets of paper bearing the impression of stamps of different values engraved thereon and sold to the public for use by them in accordance with the Rules *published in the Bombay Government Gazette under Government Notifications† No. 1251 dated 2nd March 1881 (republishing Government of India's Notification No. 875 dated the 26th February 1881), and No. 3300 dated the 8th June 1881 (republishing Government of India's Notification No. 966 dated 4th idem)*, and Hundi stamps, that is, papers supplied for sale by the Government, and to which stamped labels have been affixed by one of the officers mentioned in Rule 7, clause (*b*) of the

NOTE.—A lease, for one year certain, containing an expression on the tenant's part of readiness to hold the land longer at the same rent if the landlord should desire it, is a lease for a term not exceeding one year. (I. L. R., 2 Bom., 21).

2. There is nothing in the law to vitiate an instrument partly written on the reverse side of an impressed stamp paper. Section 12 of the Stamp Act, however, requires the stamp to appear on the face of the instrument, so that it is necessary that part of the instrument should be written on the side of the paper which bears the stamp impression. *Bombay Government Gazette* of 9th March 1891, p. 123.)

3. The whole consideration in respect of which a judicial sale is liable to duty (when the sale is made subject to a mortgage lien) is the sum of the purchase-money and the principal money (but not the interest due at the time of the sale on such mortgage. (I. L. R., 5. Bom., 470.)

*The Collector may delegate the inquiry to a Mámlatdár or Mahálkari, provided he passes final order himself. Memo. of Legal Remembrancer. (G. R. 211 of 14th January 1880.)

†These notifications were superseded by the Government of India's Notification 1288 of 3rd March 1882, which, in its turn, has been superseded by the Government of India's Notification No. 2170 of 22nd May 1891. Vide *supra* p. 314.

above-mentioned Rules, and defaced by him in manner provided by Rule 8.

Class II., *Adhesive stamps**—that is, stamps sold to the public for use by them in the case of instruments mentioned in section X. of the said Act.

Class III., *Impressed labels*—that is, stamps affixed only by Government officers in the manner prescribed in the above-mentioned Notifications.

2. Stamps in Class I. shall be sold by *ex-officio* and licensed vendors in accordance with these rules.

(Notn No. 1080, *B. G. G.*, 1884, p. 169.)

8. Stamps in Class II. shall be sold as follows :—

India Revenue, Foreign Bill and Share Transfer Stamps—By *ex-officio* and licensed vendors.

Samps for Notarial acts—By *ex-officio* vendors only.

4. Such officers as Government may appoint shall be *ex-officio* vendors, who shall sell such stamps as they may be directed. The Treasurer of each Local Treasury shall be an *ex-officio* vendor of stamps.

5. In the Presidency Town there shall be two *ex-officio* vendors of stamps who shall be members of the establishment of the Superintendent of Stamps. The duties of one of these *ex-officio* vendors shall be confined to the sale of stamps of Class I. The second *ex-officio* vendor shall sell stamps of Class II.

(Notn. No. 385, *B. G. G.*, 1883, Pt. I., p. 60.)

6. Such persons as may be licensed by the Collector or other officer empowered by Government to grant licenses shall be licensed vendors, who shall sell such stamps and of such values as may be indicated in their licenses and no others.

NOTE.—Whenever it is deemed necessary that a license should be granted for the sale of any general stamp of the value of Rs. 50 and upwards for the convenience of the public which cannot be otherwise attended to, the sanction of Government should be obtained.

7. Every license granted under the last Rule shall be in the following form :—

"To_____

LICENSE No.

Bombay,

Dated 18 .

You are hereby authorized to sell stamps of the following description (that is to say :)—

(*here insert description of stamps*)

at (*here insert the No. of the house and name of street, &c., at which the stamps are to be sold*) in the { City of Bombay / or Táluka. }

*The rules relating to *postage labels* sold to the public for use are given at the beginning of this Part. The Stamp Act does not apply to postage stamps. Any person may be a *bonâ fide* retail vendor of postage stamps labels.

The Stamp Act is applicable to the sale of receipt-stamps, and any person who is not appointed under the rules made under section 55 of the Act, selling or offering for sale such stamps is liable to punishment under section 68. (G. R. 2763 of 27th April 1882.)

subject to the provisions of the rules from time to time in force under section 55 of the Indian Stamp Act, 1879.

(Signed) Collector (or other officer empowered under Rule 6).

NOTE.—This license is revocable at any time by the Government of Bombay or by the Collector of.....

8. Every license shall be revocable at any time by Government or by the authority who granted it.

9. The following rates of discount shall be allowed to licensed vendors and the public :—

(1) Stamped papers (including Hundi stamps)—

To vendors licensed at places where stamps are sold by Government ... ... Rs. 3 per cent.

To vendors licensed at other places ... ... ,, 5 do.

(2) Adhesive stamps—

To vendors licensed at any place—

On stamps not exceeding in value 8 annas each, in quantities of not less than Rs. 5 in amount ... ... Rs. $3\frac{1}{8}$ per cent.

On stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each, in quantities of not less than Rs. 50 in amount ... ... ,, 2 do.

On stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each, in quantities of not less than Rs. 100 in amount ... ... ,, $1\frac{9}{16}$ do.

To the public—

No discount shall be granted on the sale of adhesive stamps to the public.

(Notn. No. 3971, *B. G. G.*, 1885, Pt. I., p. 1282.)

NOTE.—Licensed vendors will not be allowed any discount on the purchase of any general stamp, of which the value is more than Rs. 50.

10. Licensed vendors shall ordinarily be required to pay ready money for all stamps supplied to them. But stamps of Class I may be issued on credit at such places as may be specially sanctioned by Government: Provided that the vendors give sufficient security to cover the value of stamps issued to them and that the discount allowed on the sale of such stamps shall in no case exceed two per centum.

11. Every licensed vendor shall at all times have stuck up in a conspicuous station, outside his place of vend, a sign-board bearing, in English and in the vernacular language of the district, his name and the words "Licensed Vendor of Stamps." He shall also have in his place of vend, placed so that they can readily be seen and read by purchasers, a copy of the Indian Stamp Act and of its schedules, and a copy of these rules in English and the said vernacular, with copies of all Notifications of the Governor General in Council modifying or in any way amending the schedule of stamp rates.

* 12. Every *ex-officio* or licensed vendor shall with his own hand write on the back of every stamp of Class I which he sells a serial number, the date of sale, the name and residence of the purchaser (*i.e.*, of the person for whom the stamp is bought), and the value of the stamp in full in words and his own ordinary signature; at the same time he shall make corresponding entries in a register to be kept by him in the following form :—

Date.	Serial Number.	Description of Stamps.	Value of Stamps.	Name of Purchaser.	Residence of Purchaser.

No vendor shall knowingly make a false endorsement on the stamp sold or a false entry in his register.

(G. N. No. 7180, *B.G.G.*, 1889, Pt. I, p. 822.)

12A. Provided that whenever at the General Stamp Office, Bombay, a demand for more than one hundred impressed stamps or hundi stamps of any one description and value is made on one and the same day by one and the same purchaser, the date of sale, the name and residence of such purchaser, and the value of each such stamp may, instead of being written by the *ex-officio* stamp vendor, be printed on each such stamp.

(Notn. No. 4969, *B. G. G.*, 1891, Pt. I., p. 616.)

13 (*a*). Whenever application is made to a stamp-vendor for an impressed stamp of a specified value not exceeding the highest value which such stamp-vendor is authorized to sell, he shall, if he is able, furnish a single stamp of the required value.

(*b*). If the stamp-vendor is unable to furnish a single impressed stamp of the required value, he shall supply to the purchaser the smallest number of impressed stamps which he can furnish so as to make up the required value, and shall give to the purchaser a certificate signed by himself that he is unable to furnish a single stamp of the required value and that the stamps with which he supplies the purchaser, which he shall specify in the certificate,

* The writing of the name of the purchaser and other particulars on the back of stamp is required in the case of impressed stamps by the Rules for the sale of stamps. The rules go no further than to require these endorsements to be made by the stamp vendors, and there is no provision of the Acts or of any rule made under them that a stamp so endorsed may only be used by or on behalf of the person whose name is so endorsed. The purpose of the rules requiring the endorsement seems to be merely the provision of a means of ascertaining when, where, and by whom a stamp has been purchased. But there is nothing to prevent an impressed stamp purchased by one person being used by some other person.

2. As regards Court-fee adhesive stamps, there is not even a rule to require "the name of the purchsser, the date of sale and the signature of the vendor" to be written in the blank space left for them. Government Resolution No. 3780 of 16th May 1883, Revenue Department, is the only authority for the practice. Act XVIII of 1869 having been wholly repealed by Act I of 1879, there is no law under which rules for the sale of Court-fee stamps can now be framed (*vide* section 34 of Act VII of 1870). Government may, of course, issue executive orders as in the abovementioned Resolution, but such orders have not the force of law.

3. I am of opinion, therefore, that adhesive Court-fee stamps as well as impressed stamps used under the General Stamp Act or the Court-fees Act can legally be used by persons other than those whose names they bear as purchasers. Memo. by Legal Remembrancer. (G. R. No. 7199, 9th September 1884, R. D.).

are the smallest number which he can furnish so as to make up the required value.

14. Nothing in the last preceding rule shall be deemed to authorize a stamp-vendor to give a certificate as aforesaid when the value of the stamp required exceeds the highest value which he is authorized to sell or to furnish a purchaser with two or more impressed stamps in order to make up any such value.

15. Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector of the district. A license vendor shall not demand or accept for any stamp any consideration exceeding the value of such stamp.

16. No vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

17. Except at the Presidency Town, the accounts to be kept and rendered by licensed vendors shall be in accordance with the forms prescribed in Hope's Manual of Revenue Accounts or by Government.

18. At the Presidency Town each licensed vendor shall keep a book, showing in detail the supplies purchased from the Stamp Office and the daily sale. At the close of each month he shall submit to the Superintendent of Stamps a statement in the form of Appendix A.

19. Licensed vendors must give security for the due performance of their duties. The security bond to be taken from them shall be in the form of Appendix B. The amount of the security shall be fixed in each case by the Collector or other authority who gives the license, but as stamps will ordinarily only be supplied to the licensees on payment of ready money, it need not be large.

20. No licensed vendor shall at any time offer any objection or resistance to the inspection of his register or the examination of the store of stamps in his possession by any officer duly authorized by the Collector or by Government to make such inspection or examination.

21. Every licensed vendor shall, at any time, on the demand of the Collector or other officer duly authorized by Government, deliver up all stamps of Class I remaining in his possession: Provided that, if such stamps have been paid for, he shall be entitled to receive back the value thereof, less any discount which he may have been allowed.

22. If a licensed vendor shall at any time desire to discontinue his business, he shall be entitled, on delivering up his license and all unsold stamps remaining in his possession, to receive back the value of such stamps, if they have been paid for, less any discount which he may have been allowed. (Not. No. 3297, *B. G. G.*, 1891, Pt. I., p. 397, 14th May 1891.)

APPENDIX A. (*See Rule* 18.)

Account of.....*Licensed Stamp Vendor at*.....*No.*

DATE.	PARTICULARS.	GENERAL STAMPS.				TOTAL.
		Stamped Papers.		Hundis		
		Number of Papers.	Amount.	Number of Papers.	Amount.	
	Balance ... ... Received as per Indent of ... ... Ditto ditto ... Ditto ditto ... Total ... Sold during the month . Balance					

APPENDIX B (*See Rule* 19.)

Know all men by these presents that we, *A. B.*, resident of....., and *C. D.* resident of....., and *E. F.*, resident of ....., are jointly and severally held and firmly bound unto the Secretary of State for India in Council in the sum of Rupees.....of good and lawful money current in Bombay, to be paid to the said Secretary of State, or his certain Attorney, agents, successors, or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, and each of us, and our respective heirs, executors, administrators, and representatives, by these presents. Sealed with our respective seals. Dated this.....day of.....in the year of Christ One thousand Eight hundred and.....

Whereas according to the provisions of the rules in this behalf framed under Section 55 of the Indian Stamp Act of 1879 the above bounden *A. B.* has been duly appointed to vend at.....in the .....certain stamps on the part of Government, and whereas the above bounden *C. D.* and *E. F.* have agreed to join with the said *A. B.* in the above written bond or obligation, subject to the conditions hereunder written, as the surety or sureties of the said *A. B.* for his strict observance, for and during all the time that he the said *A. B.* has been or shall continue to be such vendor of stamps, of the duties of his said office, and of all and every the rules authorised by or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said Rules and every of them, and also for his the said *A. B.*'s strict observance, for and during all the time that he shall continue to be such vendor of stamps, of such future acts, with such penalty, and after-such form as may be required by the Collector of.....

Now the condition of the above written bond or obligation is such, that if the above bounden *A. B.* has, for and during all the time that he the said *A. B.* has been such vendor of stamps as aforesaid well, truly, faithfully, and diligently done, executed and performed, and do and shall, for and during all the time that he the said *A. B.* shall continue vendor of stamps, well, truly, faithfully, and diligently do, execute, and perform all and every the duties belonging to the said office of vendor of stamps, and has faithfully, justly, and exactly observed, performed, fulfilled, and kept, and shall faithfully, justly, and exactly observe, perform, fulfil, and keep all and every the rules mentioned or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said rules, and every of them and also if the said *A. B.* shall well and truly observe, perform, fulfil, and keep such future acts, with such penalty and after such form as may be required by such Collector of.....according to the true intent and meaning of the said last mentioned Act; and if the said *A. B.*, his heirs, executors, or administrators shall indemnify and keep and save harmless the said Secretary of State for India, his successors, and assigns of and from all loss and losses, damage and damages, which has or have happened or accrued to, or been sustained by him, the said Secretary of State for India, or which may or shall happen or accrue to, or be at any time or times sustained by him the said Secretary of State for India, his successors, or assigns, by, from, or through, or by the means of the neglect, default, insolvency, or misconduct of him the said *A. B.*, his executors or administrators or agents or his or their executors or administrators, not fully accounting for and paying to the said Secretary of State for India, his successors, or assigns, what may be justly due and owing to him by the said *A. B.* as vendor of stamps as

aforesaid, or through or by means of the neglect, misconduct, omission, or insolvency of the said *A. B.* as such vendor of stamps as aforesaid; and also shall well and truly pay or cause to be paid into the hands of the Collector of .....for the time being, or to such other officer or person as the Government of Bombay shall from time to time direct or appoint, any penalties, forfeitures, dues or other sum or sums of money which now have been, or shall, or may be at any time hereafter incurred, or any penalties which may become payable by the said *A. B.*, as such vendor of stamps, under or by virtue or by reason of the said Rules, or by any of them or by any such future Rule or Act, Rules or Acts, as shall hereafter be in that behalf passed in due form of law, relating to the said duties of stamp vendors when and so often as all or any such penalties, forfeitures, dues and other sum or sums of money shall be so incurred or become payable by the said *A. B.*, then this obligation to be void and of no effect, but otherwise to be and remain in full force and virtue.

Signed, Sealed, and Delivered at.....

In our presence

_____

_____

(Signed) *A. B.*
C. D.
E. F.

ADDITIONAL ORDERS, RULINGS, &c.

Refund and renewal of spoiled and useless Stamps.

Under Chapter VI. of the Indian Stamp Act, 1879, provision is made for the renewal or refund of the value of stamps spoiled or rendered useless, or which for any reason are not required by the possessor, on the condition that the application for such renewal or refund shall be made within six months from the date on which the stamp was spoiled, or on which it was rendered useless, or on which it was purchased.

Instances have occurred in which this limit has operated as a serious hardship. Without any fraudulent motive, holders of spoiled or useless stamps are sometimes unavoidably prevented from applying for refund or renewal within the prescribed period, and so cannot, under the provisions of the Act, obtain any relief. In such cases an order of the Government of India is now necessary before refund can be sanctioned. For the future the Governor General in Council authorises Local Governments to allow refunds or renewals of spoiled or useless stamps, or the repurchase of stamps not required, provided that application for renewal or refund be made within one year from the date of purchase of the stamp, or one year from date on which the stamp has been spoilt or rendered useless. (G. R. 601 of 28th January 1881.)

The sanction of the Local Government should be obtained in each case. (G. R. 1472 of 11th March 1881.)

Rules as to sale by District Officers of Court-fee and Revenue Stamps while moving in the Districts on their annual tours.

I. Revenue officers* shall be supplied with Court-fee and Revenue stamps from the Treasury, before proceeding on tour, for sale to *bonâ fide* petitioners in places where such stamps are not readily procurable.

II. The Court-fee stamps shall consist of the two denominations of one and eight annas and the Revenue Stamps of one denomination of one anna each.

III. The stamps so issued should be considered as a portion of the stock of the Treasury ("Depôt" or "Branch Depôt") from which they are taken and should be represented there by the receipt of the Revenue Officer until duly returned or accounted for.

IV. As often as possible during the tour fresh stamps should be purchased from the most convenient "Depôt" or "Branch Depôt" in lieu of those sold, and on returning to the station, the head of the office should account for the stamps issued to him and get back his receipt.

V. The kárkún entrusted with the duty of selling stamps should be allowed, in addition to his pay, a commission at the sanctioned rate on the realizations for his trouble and responsibility in the matter. (G. R. 6376, 9th September 1886, R. D.)

* The term Revenue officers in the above rules is to be held to include all Revenue officers who have to receive stamped petitions while on tour. This includes Mámlatdárs in the N., C. and S. Divisions and Muktiarkars in Sind. (G. R. 8372, 27th November 1886, R. D., and G. R. 8607, 7th December 1886, R. D.) District Officers are allowed to sell when on tour Revenue stamped papers of four and eight annas in places where stamps are not readily procurable. (G. R. 9024, 24th December 1886, R. D.)

Sale of stamps by a person not authorized to sell them.

One Sobharam Trambakji was convicted by the Second Class Magistrate of Dohád of selling a stamp without authority to do so under Section 68 of Act I. of 1879, and sentenced to pay a fine of Rs. 15 or in default to suffer one month's rigorous imprisonment; the case was under Section 438 of the Criminal Procedure Code referred to the High Court, which passed the following order:—

"As the accused is not a person appointed to sell stamps and has sold a stamp the conviction under Section 68 of Act I. of 1879 seems quite legal;" (G. R. 1125, 19th February 1887, R. D.)

High Court Rulings on various Sections of the Act.

Section 3 (4) Bond.—An attested instrument reciting that an account was made up of principal and interest due on a former bond executed by the same obligor, and that a certain sum was found due at the date of the instrument, the obligor promising to pay interest at a certain rate on the sum thus found due and to pay the principal on demand. *Held* a bond within the definition in I. of 1879, requiring to be stamped accordingly (I. L. R., 8 B., 297).

Agreement to repay Loan of Grain.—An attested instrument in which the obligor states that he borrowed a certain quantity of grain from the obligee and agreed to repay it at a future time in greater quantity is a bond within section 3 (4) (*b*) of I. of 1879 although the instrument is silent as to the money value of the grain. When the value of such instrument was ascertained to be less than Rs. 10, it was held properly stamped as a bond with a stamp of 2 annas (I. L. R., 7 B., 137).

One document containing contracts binding on several persons severally.

Sixteen persons borrowed a quantity of rice and executed a bond for the debt showing how much had been borrowed by each. They did not bind themselves to repay jointly and severally. *Held* that the instrument should be regarded as comprising sixteen distinct contracts, so as to fall within the purview of Section 7 of I. of 1879 and should be stamped accordingly (I. L. R., 10 B., 47).

Surety's contract added after Principal's.

Section 7.—A bond in which the contract of the principal was written first, and after his signature followed the contract of the surety signed by the latter, was held not open to objection under Sections 7, 13 and 14 of Act I. of 1879 (I. L. R., 5 B., 188).

Stipulations to repay Mortgagor for protecting title.

A mortgage does not require additional stamp duty on account of stipulations to repay the mortgagor costs incurred in protecting the title (I. L. R., 9 B., 435).

Section 12.—For the meaning of the words "on the face of the instrument" *vide* I. L. R., 5 B., 188.

Section 7 and Schedule I, Article 54.—In one and the same instrument two brothers relinquished their rights to certain property in favour of a third brother who undertook to discharge certain debts and pay them an annuity. *Held* that the instrument was a release only under Article 54. (I. L. R., 9 B., 417.)

Section 24 and Schedule I, Articles 16 and 21.—If property is sold at a Court auction subject to a mortgage and the amount of the mortgage is set out in the certificate of sale, the stamp duty must be calculated (under section 24 and Articles 16 and 21 of Schedule I.) on the amount of the purchase money paid at the sale *plus* the *principal* (not the interest) set forth in the certificate as due on the mortgage. It is otherwise if the mortgage is only recited in the proclamation of sale and not expressly set out in the certificate of sale.

Arrears of interest due on the mortgage in such case must under Section 23 be excluded in calculating the stamp duty (I. L. R., 5 B., 470).

Certificates to eight persons of property sold subject to one mortgage.

Where immoveable property was sold at a Court-sale in eight lots to different persons subject to one mortgage, the whole of the principal due on the mortgage and not a proportionate amount *plus* the price paid for each lot at the auction sale was to be regarded in calculating the *ad valorem* stamp duty as the consideration for each purchase on which a separate sale certificate was obtained (I. L. R., 10 B., 58).

Section 34.—The question for the Court is whether a document when tendered in evidence bears the proper stamp on it. The Court need not and cannot go into the question as to when the stamp was affixed (I. L. R., 12 B., 208; 24, W. R., 198).

Sections 37—40 and 61.—The Collector is bound to give an opportunity for the payment of duty and penalty to a person before proceeding against him under Section 61 (I. L. R., 7 B., 82).

Section 61.—Merely receiving an unstamped instrument does not amount to abetment of its execution (I. L. R., 7 B., 82).

Section 64.—A prosecution for refusing to give a receipt cannot be instituted without the sanction required by Section 69 (I. L. R., 9 B., 27).

Schedule 1, Article 1.—An account stated containing no promise in writing is sufficiently stamped with one anna (I. L. R., 8 B., 194).

Articles 5 and 28.—Indemnity note given to a Railway by a consignee is not an indemnity bond within Article 28 but an agreement, Article 5 (*c*), chargeable only with an 8-anna stamp (I. L. R., 5 B., 478).

Article 13.—The Government of India considers that declarations of trust should be charged with stamp duty on an *ad valorem* scale, similar to that prescribed for bonds in Article 13 of Schedule I of the Stamp Act, subject, however, to a maximum duty of Rs. 15 (Memo. of Government of India, Department of Finance and Commerce quoted, G. R. 317, 17th January 1888, R. D).

Article 37.—Instrument of Partition.—An award for partition signed in token of assent by the parties interested requires to be stamped under Article 37 (I. L. R., 9 B., 50).

Article 44.—Article 44 (*a*) applies only where the possession is to be given at the time of execution (I. L. R., 8 B., 310).

Receipts passed by Municipalities on account of house-tax and cesses, &c., for sums exceeding Rs. 20 are not exempt from stamp duty.

Judgment of the High Court in Reference No. 36 of 1886 made by the Commissioner in Sind under Section 46 of the Indian Stamp Act I. of 1879.

We think the question referred to us must be answered in the affirmative. The receipt sent up with the reference is one for the payment of money "the amount * * * * * of which exceeds twenty rupees." It is, therefore, an instrument requiring a stamp under Act I., of 1879, Schedule I. Article 52, unless it comes under Schedule II., Article 15 (*b*). That article exempts from stamp duty a receipt for payment of money "without consideration." The exemption was intended apparently to apply to receipts for "voluntary" payments, which in the ordinary legal acceptation of the term are payments without consideration, such as payments made merely in consideration of natural love or affection or mere gifts. The receipt in question is one for payment of house rate due to the Municipality under the Act constituting the Municipality. The payment is not gratuitous, but one in satisfaction or discharge of a legal obligation imposed by the Act, and in order to relieve the payer from the consequence which would ensue in case of his committing default, and is therefore not one without "consideration." (G. R. 5862 1st September 1887, R. D.)

Schedule 2, Article 13.—A lease of immoveable property for any purpose other than cultivation is not exempted by Article 13 (*b*), Schedule II. (I. L. R., 10 B., 173.)

Meaning of "Cultivator."—The term cultivator in Article 13 does not include middlemen, but those who cultivate themselves or by the members of their household or with their own stock. (I. L. R., 5 All., 360.)

REDUCTIONS AND EXEMPTIONS (STAMP ACT).*

(Notn. No. 5855, *B.G.G.*, 1889, Part I, pp. 1008 and 1017.)

Under section 8 of the Indian Stamp Act, I of 1879, it is hereby notified that, in exercise of the power to reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which (*a*) any instruments, or (*b*) any particular class of instruments, or (*c*) any of the instruments belonging to such class, or (*d*) any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, the Governor General in Council has been pleased—

(1) to direct that the duties chargeable on the instruments specified in the first column of the first schedule to this notification shall be reduced to the amounts respectively indicated in the second column of that schedule, and

(2) To remit the duties chargeable on the instruments specified in the second schedule to this notification.

2. All previous notifications under section 8 of the Indian Stamp Act, I of 1879, are hereby cancelled, but not so as to affect their past operation.

THE FIRST SCHEDULE.

Instruments on which Stamp-duty is reduced.

1	2
Description of Instrument.	Proper Samp-duty.
1. *Agreement* executed for service or for performance of work in a coffee plantation in the Madras Presidency, Coorg or Mysore, when the advance given under the agreement does not exceed twenty rupees.	One anna.
2. *Charter-party* containing a clause as to the payment of compensation in case of breach of the contract evidenced thereby.	One rupee.
3. *Instrument evidencing an agreement to secure the repayment of a loan* made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage. (*a*) When the loan is repayable not more than three months from the date of the Instrument.	Half the duty chargeable under the Indian Stamp Act, I of 1879, Schedule I, Article II (*b*), on a Bill of Exchange for the amount secured.
(*b*) When the loan is repayable more than three months, but not more than one year, from the date of the Instrument.	The same duty as that chargeable under the Indian Stamp Act, I of 1879, Schedule I, Article II (*b*), on a Bill of Exchange for the amount secured.
4. *Instrument of gift* of shares in a Company or Association.	The same duty as that chargeable under the Indian Stamp Act, I of 1879, Schedule 1, Article 60 (*a*), on a transfer of shares for a consideration equal to their value, as set forth in the instrument of gift.
5. *Instrument of partition* of land held on settlement for a period not exceeding thirty years and paying the full assessment to the Government.	Not to exceed the amount chargeable on a valuation of the land at five times the annual revenue.
6. *Policy of insurance* effecting a re-insurance, by an Insurance Company which has granted a policy of sea-insurance or a policy of insurance against loss by fire, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One rupee.
7. *Power-of-attorney* of the kind specified in the Indian Stamp Act, I of 1879, Schedule I, Article 50 (*b*), when required in suits or proceedings under the Presidency Small Cause Courts Act, XV of 1882.	Eight annas.

* For reductions and remissions of *Court-fees vide infra*, p. 342.

1	2
Description of Instrument.	Proper Stamp-duty.
8 *Proxy* executed by a female, empowering any person to vote— (*a*) at any one election of members of a Local Board, held under the provisions of the Bombay Local Boards Act (Bombay Act I of 1884) or (*b*) at any one election of Municipal Commissioners held under the provisions of the Bombay District Municipal Act Amendment Act (Bombay Act II of 1884).	One anna.

THE SECOND SCHEDULE.

Instruments exempted from Stamp-duty.

1. *Agreements*—

(*a*) of the kind described in the Dekkhan Agriculturists' Relief Act, XVII of 1879, section 43;

(*b*) executed under the Indian Emigration Act XXI of 1883, section 35, sub-section (*1*);

(*c*) made under Act II of 1886 (*An Act for imposing a tax on income derived from sources other than agriculture*), section 9, sub-section (*2*);

(*d*) respecting the occupancy of land, whether surveyed or not, and the payment of the land-revenue therefor, executed under the Bombay Land-revenue Code (Bombay Act V of 1879) or any rules made under that Act;

(*e*) or declarations, by which a tender made to an Executive Commissariat Officer is accepted as a contract, when the deposit of the contractor as security for his contract is made in Government of India Loan Notes or in cash;

(*f*) agreement papers passed by Commissariat contractors when their security deposits are transferred to a Savings Bank;

(*g*) made with Railway Companies or Administrations for the conveyance of goods;

(*h*) made with Railway Companies or Administrations which purport to limit the obligations or responsibilities of those Companies or Administrations as carriers under the Indian Contract Act, IX of 1872, sections 151 and 161, and are in a form approved by the Governor-General in Council under the Indian Railway Act, IV of 1879, section 40;

(*i*) or indemnity bonds given to Railway authorities by consignees (when the railway receipt is not produced) in respect of the delivery of articles carried at half parcels rates, namely, fresh fish, fruits, vegetables, bazár baskets, bread, meat, ice and other perishable articles.

2. *Bills of Exchange*—

(*a*) drawn quarterly by the Government of Portuguese India for the money payable to that Government under Article XV of the Anglo-Portuguese Treaty;

(*b*) drawn in Mysore, the Hyderabad Assigned Districts or the Cantonment of Sikandarabad on which the full rate of stamp-duty has been paid there, when the same are negotiated in British India.

3. *Bills of Lading*—

executed out of British India and relating to property to be dilivered in British India.

4. *Cheques*—

drawn in Mysore, the Hyderabad Assigned Districts or the Cantonment of Sikandarabad on which the full rate

of stamp-duty has been paid there, when the same are negotiated in British India.

5. *Copies or Extracts*—

(*a*) copies of instruments which the Village Registrar has to deliver to the parties under the Dekkhan Agriculturists' Relief Act, XVII of 1879, section 58;

(*b*) copies of, or extracts from, baptismal, marriage or burial registers certified by Government Chaplains, subsidised or unsubsidised Clergyman, or Diocesan Registrars, and granted to

(1) soldiers, sailors or non-commissioned or petty officers, or

(2) persons in needy circumstances, in whose favour Chaplains may exercise the discretionary power vested in them by Rule IV of Division III of the rules published under Notification No. 103, dated the 20th June, 1885, in the *Gazette of India* of the 27th idem, Part I, page 346;

[*N.B.*—This exemption is in respect of any stamp-duty with which the copies or extracts might otherwise be chargeable.]

(*c*) copies or extracts certified by patwaris to be true copies of, or true extracts from, records or papers which they are required to prepare or keep by any rule made by the Chief Commissioner under the Central Provinces Land-revenue Act, XVIII of 1881, section 146, when the copy or extract is furnished by a patwari to a malguzar or tenant of or in the village with which the copy or extract is concerned;

6. *Debentures*—

(*a*) debenture bonds issued by a Joint Stock Company under the terms of a mortgage-deed making over in whole or in part the property of the Company to trustees for the benefit of the debenture-holders, and interest coupons attached to the said debentures;

(*b*) the debenture bonds of the loan of Rs. 20,00,000 raised by the Government of His Highness the Mahárája of Mysore for the construction of a line of Railway from Bangalore to Tiptoor, when the said bonds are negotiated in British India;

(*c*) certain debentures issued by Municipal and other bodies (as specified in the Notification).

N.B.—This exemption is in respect of any stamp-duty with which the debentures might otherwise be chargeable on renewal, sub-division or consolidation.]

7. *Instruments*—

(*a*) executed for the purpose of securing the repayment of loans made or to be made under the Agriculturists' Loans Act, XII of 1884 or under Rule 147 of the rules framed under the Burma Land and Revenue Act, II of 1876;

(*b*) in the nature of a memorandum or agreement furnished to, or made or entered into with, Executive Commissariat Officers by Contractors;

(*c*) in the nature of a memorandum or agreement furnished to, or made or entered into with, the Ordnance Department, the Army Clothing Department or the Public Works Department by Contractors for the due performance of their contracts;

(*d*) executed by officers of the Government or their sureties to secure the due accounting for property received by those officers by virtue of their office;

(*e*) whereby proprietors and others in the Central Provinces engage with the Government for the maintenance and remuneration of patwaris;

(*f*) conveyances by endorsement of rights secured by instruments known as "Sattas". (this clause applies only to the Central Provinces);

(*g*) pattas granted by an officer of the Government or by any assignee of Government revenue in the Madras Presidency to holders of land under raiyatwar settlements;

(*h*) sanads of jagirs and other documents conveying lands granted to individuals by the Government, otherwise than for a pecuniary consideration;

(*i*) of exchange executed by private persons when land is given by them for public purposes in exchange for other land granted to them by the Government;

[*N.B.*—This exemption is in respect of the stamp-duty which would otherwise be payable by private persons under section 29, clause (*f*), of the Indian Stamp Act, I of 1879.]

(*j*) contracts executed in accordance with the provisions of the Inland Emigration Act, I of 1882, for service in Assam under the Chief Commissioner in the Public Works Department or under District Committees constituted under the Assam Local Rates Regulation, III of 1879;

(*k*) deed of dower executed on the occasion of a marriage between Mahammadans.

8. *Leases and Counterparts*—

(*a*) leases granted by the Government under rules made under the Indian Forest Act, VII of 1878, section 31, or purporting to be so granted, of land situated in a protected forest in any of the following villages in the Akola Táluka of the district of Ahmednagar in the Presidency of Bombay, namely:—

Ambit,	Lohali Kotul,	Samrád,
Ghatghar,	Pachnei,	Shinganvádi,
Kumshet,	Pánjre,	Uddavné.

(*b*) leases granted under Rule 31 of the rules published by the Government of Bombay under the Bombay Land Revenue Code (Bombay Act V of 1870);

(*c*) leases or counterparts thereof executed at the time of settlements made directly by the Government with existing occupants of land, whether zamindárs or tenants and whether self-cultivating or not: provided that no fine or premium is paid in consideration of the lease.

9. *Letter*—

Which a person depositing money in a District Savings Bank or Post Office Savings Bank, as security to the Government or a local authority for the due execution of an office or for the fulfilment of a contract or for any other purpose, is required by the rules of the Savings Banks to address to the Secretary to the District Savings Bank or the Post Master in charge of the Post Office Savings Bank agreeing to special conditions with respect to the application and withdrawal of the money deposited and the payment of interest accruing due thereon.

"Local authority" in this clause means a municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.

10. *Policy of Insurance*—

Policies of life insurance and contracts for monthly allowances granted by the Director General of the Post Office of India in accordance with the rules for Postal Life Insurance and monthly allowances issued under the authority of the Government of India.

11. *Powers-of-Attorney*—

Furnished to relatives, servants or dependents under the Dekkhan Agriculturists' Relief Act XVII of 1879, section 68.

12. *Receipts*—

(*a*) given by mounted Police Constables, on account of their pay and allowances;

(*b*) given by the addressee for deposits exceeding twenty rupees, made for the payment of replies to telegraphic messages;

(*c*) endorsed by the payee on Postal Money Orders:

[*N.B.*—This exemption is in respect of any stamp-duty with which the receipts might otherwise be chargeable.]

(*d*) given by Railway Companies or Administrations for fares for conveyance of passengers or goods, or both, or animals;

(*e*) given for payment of interest on Government Promissory Notes;

(*f*) given by, or on behalf of, depositors in Post Office District, Presidency or State Railway Savings Banks or in the East Indian Railway Savings Bank for sums of money withdrawn from any of those Banks;

[*N.B.*—This exemption applies in all cases in which the receipts would otherwise be liable to stamp-duty.]

(*g*) given by opium cultivators or their representatives and by lumbardars and khattadars in the Behár and Benáres Agencies for money paid to them by the Government as advances for the cultivation of opium.

(Notn. No. 5184, *B. G. G.*, 1890, Pt. I., p.743.)

18*th July* 1890.—In exercise of the power conferred by section 8 of the Indian Stamp Act, I of 1879, the Governor General in Council is pleased to remit the duty chargeable under the said Act on the memorandum and articles of association of and association registered under section 26 of the Indian Companies Act, VI of 1882.

Notn. No. 8175, republishing Notn. No. 1661, of I., *B. G. G.*, 1890, p. 1144.)

14*th November* 1890.—In exercise of the power conferred by section 8 of the Indian Stamp Act, 1879, the Governor General in Council is pleased to direct that in the case of any Company issuing share warrants as provided by section 30 of the Indian Companies Act, 1882, such share warrants shall be exempt from payment of the duty specified in section 35 of the said Indian Companies Act, 1882, upon payment as composition for that duty to the Collector of Stamp Revenue of three-quarters per centum of the whole subscribed capital of the Company.

Notn. No. 726, *B. G. G.*, 1891, Pt. I., p. 83 republishing of I. Notn. No. 259.)

21*st January* 1891.—In exercise of the power conferred by section 8 of the Indian Stamp Act, 1879, the Governor General in Council is pleased to direct that if any Company limited by shares which has paid the full stamp duty chargeable on its share warrants or the composition therefor, mentioned in Notification No. 1661, dated 14th November 1890, subsequently issues an addition to its subscribed capital, the share warrants issued by such Company under section 30 of the Indian Companies Act, 1882, with respect to such additional capital shall be exempt from payment of the duty specified in section 35 of the said Indian Companies Act, 1882, upon payment, as composition for that duty, to the Collector of Stamp Revenue of ½ per centum of the additional Capital so issued.

Notn. No. 7417, *B. G. G.*, 1891, Pt. I., p. 884, republishing G. of I. Notn. No. 4345.

19*th October* 1891.—In exercise of the powers conferred by section 8 of the Indian Stamp Act (I of 1879), the Governor General in Council is pleased to remit the duty chargeable under that Act on—

(1) Copies of entries in the certified copies of registers given under section 8 of Act VI of 1886;

(2) Copies of entries in register books granted by any Registrar of Births and Deaths under section 25 of the said Act; and

(3) Copies of entries in registers and records given under section 35 of the said Act,

when applied for by a soldier, sailor, non-commissioned officer, or petty officer.

(2)—RULES UNDER THE COURT FEES ACT, VII OF 1870.*

Rules by Government of India under Sections 26 and 35.

In exercise of the powers conferred by Sections 26 and 35 of the Court Fees Act, 1870, and of all other powers enabling him in this behalf, and in supersession of Notification by the Government of India in the Financial Department, No. 1520, dated 5th March 1875, and all other Notifications on the same subject, the Governor General in Council is pleased to issue the following directions:—

I. When in any case the fee chargeable under the said Act is less than Rs. 10, such fee shall be denoted by adhesive stamps only. Such adhesive stamps shall either be the adhesive stamps bearing the words 'Court Fees,' at present in use, or adhesive stamps of any different shape, size or pattern, bearing the words 'Court Fees,' which may hereafter be issued for use, in supersession of, or in addition to, the adhesive stamps now in use. (Notn. No. 3246, *B. G. G.* 1883, Part I. p. 352, republishing G. of I. Notn. No. 361, 18th April 1883.)

II. When in any case the fee chargeable under the said Act amounts to or exceeds Rs. 10, such fee shall be denoted by impressed stamps bearing the words 'Court Fees,' adhesive stamps being only employed to make up fractions of less than Rs. 10.

III. If in any case the amount of the fee chargeable under the said Act involves a fraction of an anna, such fraction shall be remitted.

IV. This notification shall take effect on and after the 1st June 1883.

The additional Court Fee payable under Section 19 E of the Court Fees Act † on Probates and Letters of Administration shall be denoted either—

(*a*) by impressed and adhesive stamps in the manner prescribed in Notification No. 361 of 18th April 1883,‡ or (Notn. No. 1522, *B. G. G.*, 1885, Part I., pp. 429-430.)

(*b*) wholly by adhesive stamps of the kind described in Clause I. of Notification No. 361† of 18th April 1883.

The Government of India having in their Notification* in the Department of Finance and Commerce, No. 361, dated 18th April 1883, prescribed the use from 1st June 1883 of adhesive stamps for denoting Court Fees amounting to less than Rs. 10, His Excellency the Governor in Council is pleased in supersession of Government Notification, dated 13th April 1875, published at page 349 of the Bombay Government Gazette of the 15th idem, Part I, to lay down, under Section 27 (*b*) of the Court Fees Act, 1870, the following rules for regulating the number of stamps to be used for denoting any fee chargeable under the said Act:—

*Republished under Government Notification No. 3246, dated 25th April 1883.

1. When, in the case of fees amounting to less than Rs. 10, the amount can be denoted by a single (Notn. No. 3780, *B. G. G.*, 1883, Part I., p. 357.)

† valuation of suits for the purpose of jurisdiction is per- [redacted] their valuation for the fiscal purpose of

adhesive stamp, such fee shall be denoted by a single adhesive stamp of the required value. But if the amount cannot be denoted by a single adhesive stamp, or if a single adhesive stamp of the required value is not available, the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values, which may be required to make up the exact amount of the fee.

II. When in the case of fees amounting to or exceeding Rs. 10, the amount can be denoted by a single impressed stamp, the fee shall be denoted by a single impressed stamp of the required value. But if the amount cannot be denoted by a single impressed stamp or if a single impressed stamp of the required value is not available, an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamps of the next lower values available which may be required to make up the exact amount of the fee in combination with adhesive stamps to make up fractions of less than Rs. 10.

III (*a*). Any adhesive stamps which may be used under Rule II shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

(*b*) When two or more impressed stamps are used to make up the amount of the fees chargeable under the Court Fees Act, a portion of the subject-matter shall be written on each impressed stamp so used and the writing on each stamp shall be attested by the signature of the person or persons executing the document.

(*c*) When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto as may be necessary for the complete writing of the document, and the writing on the impressed stamp and on the plain paper shall be attested by the signature of the person or persons executing the document.

The following revised Rules framed under Section 48 of Act XVIII of 1869* and Section 34 of Act VII of 1870, by the Government of Bombay for the purpose of regulating the sale of Court Fees Stamps, for determining the person by whom such sale is to be conducted, and for fixing their remuneration, having been approved by the Governor General of India in Council, are published for general information, in supersession of the Rules published at page 1009 of the *Bombay Government Gazette* of 11th December 1873 :—

(*B. G. G.*, 1874, Pt. I., pp. 690-691.)

1. The Office of the Superintendent of Stamps at Bombay shall be the Head Central Depôt for Court Fees Stamps.

2. Each Huzúr or Collector's Treasury shall be regarded as a Central Depôt. The Treasuries of

Political Agents shall also be Central Depôts for the districts placed under their charge. Each Táluka and Mahál Treasury shall be a Sub-Depôt for Court Fees Stamps.

3. Court Fees Stamps will be sold at all Treasuries in the Bombay Presidency, and by such persons as may be licensed to sell stamps by the Collector or other officer empowered by the Local Government to grant licenses.* The Treasurer of each Treasury, and any salaried persons as may be appointed by the Local Government, shall be *ex-officio* vendors of Court Fees Stamps.

4. *Ex-officio* vendors shall not be required, except in the Town of Bombay to sell Court Fees Stamps of a lower value than 50 rupees each. Court Fees Stamps of lower values shall be sold by the licensed vendors.

5. Every license shall be revocable at any time by the Local Government, or by the authority who granted it. Every license shall specify the name of the licensee, the description of stamps which may be sold under the license, and the place of vend, and it shall be signed by the authority granting it. The license shall be in the form annexed to these Rules.

No licensed vendor shall sell any impressed Court Fee Stamps of the value of Fifty Rupees or upwards except under a license granted to him in this behalf with the express sanction of Government. Such sanction will only be granted when it is deemed necessary for the convenience of the Courts or of suitors.† (Notn. No. 6563, *B.G.G.*, 1883, Pt.I., p. 647.)

6. Court Fees Stamps shall be sold to the public for cash only. Lincensed vendors of such stamps shall receive such a rate of discount as may be ordered by the Local Government, but not exceeding a rate of two rupees per cent. on all purchases of Court Fees Stamps form a Central or Sub-Depôt. Licensed vendors will be required to pay cash for Court Fees Stamps purchased by them. No discount shall be given on account of the purchase by a vendor of any stamp of 50 rupees or upwards in value.

7. Every licensed vendor shall have at all times posted in a conspicuous position outside his place of vend, a sign-board bearing the name of the vendor with the words " Licensed vendor of Court Fees

*Selling Court Fee Stamps without a license is not punishable under section 68 of Act I of 1879. (*Vide* I. L. R., 4 All., 216, and G. R. No. 658 of 28th June 1888, R. D.)

† Memo. from the Remembrancer of Legal Affairs :— The rule does not require that a person who has to pay a Court Fee of Rs. 50 or upwards shall obtain all the impressed stamps or lables necessary to represent the fee from an *ex-officio* vendor or from a stamp-vendor holding a special license. And the rule was not, in my opinion, transgressed if the plaintiff, after having purchased an impressed paper of the value of Rs. 60 (the highest suitable value at the time obtainable) from the local *ex-officio* vendor, used, in order to make up the fee of Rs. 67-8-0, lables which he purchased either then expressely or at any previous time from a licensed stamp-vendor. Nor can it be said that the licensed stamp-vendor transgressed the rule if he sold lables to the plaintiff for Rs. 7-8-0 knowing that he intended to use them for the above purpose, because he was not bound to inquire what purpose the lables were to be put to. The rule merely prohibits the sale by a licensed stamp-vendor of any impressed Court-fee stamp of the value of Rs. 50, or upwards, except under a special license; and no such sale appears to have taken place. (G. R. No. 2821, 14th April 1886, R. D.)

Stamps," in English and in the vernacular of the district. He shall also have in the place of vend the Acts of the Legislature, and the schedules referring to the stamps sold by him, together with these Rules in English and the vernacular, placed so that they can readily be seen and read by purchasers.

8. In the case of impressed stamps, every *ex-officio* or licensed vendor shall write, on the back of every such stamp which he sells, the date of sale, the name and residence of the purchaser, and the value of the stamp in full in words, and his own ordinary signature, at the same time he shall make corresponding entries in register to be kept by him in the form prescribed in Rule 13. No such vendor shall knowingly make a false endorsement on the stamp sold, or a false entry in his register.*

9. Every licensed vendor of the Court Fees Stamps shall, without delay, deliver any stamp which he has in his possession for sale, on demand by any person tendering the price thereof.

10. No vendor shall sell any stamps the use of which has been ordered by a competent authority to be discontinued. On returning such stamps to the Depôt within six months from the date of such order of discontinuation, he shall be entitled to receive back the value thereof, less any discount which may have been allowed.

11. Every vendor shall keep and render such account as may be prescribed by the Local Government, and shall allow the Collector of the district or any officer duly authorized by such Collector or by the Local Government, at any time, to inspect such account and the register which he is required to keep under Rule 8, and to examine the store of stamps in his possession.

12. Every vendor shall, at any time on the demand of the Collector or other officer duly authorized by the Local Government, deliver up all stamps remaining in his possession; and, if such stamps have been paid for, shall receive back the value thereof, less any discount which may have been allowed.

13. The register required to be kept under Rule 8 shall be in the following form:—

Date.	Description of Stamp.	Value of Stamp.	Name of Purchaser.	Residence of Purchaser.

14. An *ex-officio* vendor of Court Fees Stamps may be required to give security for the proper performance of his duties, if such appear necessary to the head of the office in which the vend of the stamps is to be conducted. The terms of the bond can be specially framed to meet the requirements of the case.

*It appears that adhesive court-fee stamps as well as impressed stamps used under the General Stamp Act or the Court Fees Act can legally be used by persons other than those whose names they bear as purchasers. *See* G. R. 7199, 9th September 1884, R. D., and *note to* Rule 12 *under* section 55 of Indian Stamp Act, *supra*.

(*Annexure to Rule* 5.)

The following is the form for the License indicated in Rule 5 :—

No.

To

(Date)

License

You are hereby authorized to sell Court Fees Stamps of the following descriptions (that is to say) :—(here insert description of stamps), at (here insert the number of the house and the name of the street, or court, or district or locality, and the name of the Collectorate, wherein the stamps are to be sold) according to the Rules made under section 48 of the General Stamp Act of 1869, and section 34 of Act VII of 1870.

(Signature of the Officer granting the License.)

NOTE.—This License is revocable at any time by the Government of Bombay or by the Officer granting it.

Rules framed under section 27 *of Act VII of* 1870 *for regulating :* B.G.G., 1873, pp. 1010 to 1012, and B.G.G., 1874, p. 579.

(1) *the supply of stamps to be used under the Act,*

(2) *the number of stamps to be used for denoting any fee chargeable under the Act,*

(3) *the renewal of damaged or spoiled stamps, and*

(4) *the keeping of accounts of all stamps used under the Act.*

1. Court Fees Stamps shall be supplied from the General Stamp Office in Bombay to Central Depôts on indents to be submitted in the Form A. attached to these rules, by Treasury officers or other officers in charge of Central Depôt.

2. Sub-Depôts shall be supplied with Court Fees Stamps from the Central Depôts to which they are subordinate, on monthly indents to be submitted to the Central Depôts in the Form B.

3. Each Central Depôt shall keep a supply of Court Fees Stamps equal to its own probable requirements for two months, in addition to what it is directed to keep for the Sub-Depôts.

4. Each Sub-Depôt shall keep a supply of Court Fees Stamps equal to its probable requirements for one month.

5. (*Superseded by more recent rules given below.*)

6. A Court Fees Stamp shall be held to be damaged or spoiled within the meaning of section 27, clause (*c*), when—

(1) by any accident happening to the same it is rendered spoilt and unfit for use ;

(2) because of some error in the drawing or copying of any writing upon it, or to which it is affixed, the writing is rendered of no avail ;

(3) by reason of death or from any other cause, a transaction, which is intended to be effected by a writing duly stamped with the proper fee, is not completed, and the writing becomes of no avail;

(4) the transaction intended by such writing to be effected has been effected by some other instrument on which the proper fee has been duly paid;

(5) from any error or informality in the drawing up or in the signing of any writing on which the proper Court Fees Stamp has been duly affixed, and cancelled by any officer of any Judicial or Magisterial Court, or of any public officer duly appointed to perform the same, the writing is returned or rejected by the Court or public office to which it was sent or addressed, and the stamp has thereby become unfit for use.

* In such cases, the owner may apply to the Collector of the district for renewal, and the Collector shall renew the stamp accordingly, provided he is satisfied of the sufficiency of the grounds of the applications.

The stamp shall be renewed by the supply, at the option of the applicant, either of one Court Fees Stamp or of two or more Court Fees Stamps in the aggregate of the same value as the spoiled stamp.

7. Accounts of issues and sales of Court Fees Stamps shall be kept at every Central Depôt in such form as may be required by the Local Government.

8. Each Sub-Depôt shall render to the Central Depôt to which it is subordinate a monthly return in Form C., showing the opening balance, the amount of stamps received, the total amount of stamps sold, and the amount of stamps in hand. Each of these items, except the last, should be tested at the Central Depôt, and the amount of stamps in hand should be certified by the head of the office.

9. The proceeds of sales at Sub-Depôts shall be credited to the nearest Treasury as realized, and incorporated each month in the receipts of the Central Depôt as if they had been there realized.

10. In order that there may be no discrepancies between the returns rendered by Collectors to the Superintendent of Stamps, and the actual receipts accruing from the sale of Court Fees Stamps in any month, the accounts and returns of these stamps kept in the Sub-Depôt shall be closed on the dates fixed for the closing of revenue monthly accounts in the tálukas, and the proceedings of the remaining days in the month shall be shown in the accounts and returns of the succeeding month as is done in the case of revenue accounts.

11. Each Central Depôt shall incorporate with its own returns of sales and balance the sales and balances at the Sub-Depôts subordinate to it, in the

* For rules as to refund of value of Court Fee Stamps and Court Fee Adhesive Labels see *infra* p. 345.

same way as if the stamps sold and balances retained at the Sub-Depôts had been sold and retained at the Central Depôt itself.

12. The Superintendent of Stamps shall keep an account of all receipts and issues of Court Fees Stamps in the form now in use, or in any other form which may be prescribed by the Local Government.

13. A monthly return of stamps issued to and returned from Central Depôts shall be furnished by the Superintendent of Stamps to the Accountant General.

A.

Indent on the Superintendent of Stamps, Bombay, for Adhesive Court Fees Stamps.

I request that the undermentioned Adhesive Court Fees Stamps may be sent to me :—

1	2	3	4	5	6		
Description.	Number in Store on date of Indent in Labels.	Number sold in the last six months in Labels.	Number Indented for in Labels.	Number passed by Superintendent in Labels.	Total Value.		
					Rs.	a.	p.
One-anna Adhesive Court Fees Stamps							
Two do. do. do. ...							
Three do. do. do. ...							
Four do. do. do. ...							
Six do. do. do. ...							
Eight do. do. do. ...							
Twelve do. do. do. ...							
One Rupee do. do. ...							
Two do. do. do. ...							
(Value to be entered according to requirements).							

(Name of Station)

(Date) *(Designation.)*

B.

Indent on the Huzúr Treasury of for the undermentioned Adhesive Court Fees Stamps required for the Sub-Depôt of

Description.	Number in Sub-Depôt on date of Indent in Labels.	Number sold during one month in Labels.	Number indented for in Labels.	Total Value.		
				Rs.	a.	p.
One-Anna Adhesive Court Fees Stamps						
Two do. do. ..						
Three do. do. ..						
(Value to be entered according to requirements.)						

(Name of Station.)

(Date) *(Designation.)*

Account of Sale and Stock of Adhesive Court Fees Stamps at the Sub-Depôt of *for the month of* 18 .

	1 Anna Labels.	2 Anna Labels.	3 Anna Labels.	4 Anna Labels.	6 Anna Labels.	8 Anna Labels.	12 Anna Labels.	1 Rupee Labels.	2 Rupee Labels.	4 Rupee Labels.	5 Rupee Labels.	7 Rupee Labels.	10 Rupee Labels.	20 Rupee Labels.	40 Rupee Labels.	70 Rupee Labels.	100 Rupee Labels.	200 Rupee Labels.	400 Rupee Labels.	700 Rupee Labels.	1,000 Rupee Labels.	Value. Rs.	a.	p.
Stock in hand at the close of last month																								
Received from the Huzúr Treasury of during the month ...																								
Total ...																								
Sold during the month																								
Balance ...																								

(*Name of Station.*)
(*Date*)

(*Designation.*)

RULES UNDER SECTION 20.

(*B. G. G.*, 1875, Pt. I., p. 687.)

The Government of India having approved of the following Rule made by the High Court, Bombay, under Section 20 of the Court Fees Act, VII of 1870, for the Revenue Courts in the Bombay Presidency proper, and sanctioned its acceptance as the Rule contemplated under Section 23 of that Act; it is hereby published for general information :—

The fees chargeable by all Revenue Courts shall be—

(1) for every Notice or Summons, 3 annas; and

(2) for every Warrant of Arrest issued on application of parties, 6 annas.

Section 20 of the Court Fees Act, 1870, empowers the High Court to make rules for the fees of processes issued by Civil and *Revenue* Courts. Although the term "Revenue Court" appears to be falling into disuse, powers of a judicial nature, which under the Regulations of 1827 and subsequent years were exercised by officers considered to constitute such Courts, are still exercised by Revenue officers, and, as may be seen, the term is still retained in the Court Fees and perhaps a few other Acts of later years. There is no objection to the definition, of the term as "any Revenue authority holding, as such, a judicial proceeding."

The Courts of Mámlatdárs acting under Bombay Act III of 1876 are Civil and not Revenue Courts, and an account of the work of these Courts should be embodied in the High Court's Report on the Administration of Justice, the Collectors furnishing the information in the form the High Court may prescribe.

The Revenue officers enumerated in the statement given below,* when acting under the provisions of the law therein quoted, should submit a report of their work to Government and not to the High Court.

The scale of fees prescribed by the High Court under section 20 of the Court Fees Act can be applied to processes issued by the officers above mentioned, unless such processes are issued by the officers *proprio motu*, or at the instance of other officers acting on behalf of Government. (G. R. 5855, J. D., of 5th and 6444 of 30th September 1881).

Note.—The above scale was originally intended to be applicable to the Mámlatdárs' Courts constituted under Act III of 1876, and should still be observed in those Courts. The scale of fees applicable to Courts constitued under the Bombay Civil Courts Act, 1869, is not to be observed in the Mámlatdárs' Courts. *See* Part XVII of this compilation.

3. In formal and summary enquiries under the Land Revenue Code which it is desirable should not be dismissed through default of the parties in furnishing Court-fee or batta for witnesses, the Revenue authority holding the enquiry should accept the petition or complaint and summon the witnesses *proprio motu*. The procedure sanctioned in the Government of India Resolution 3025 of 31st December 1878, published at page 79, No. 121 of the present edition of the High Courts' Circular Orders, should be adopted in such cases as far as practicable. (G. R. 6737 of 11th November 1881, R. D.)

*Statement referred to :—

Designation of Revenue Authorities.	Act under which Revenue Officers hold Judicial Proceedings.
Commissioner, Assistant Commissioner or Deputy Commissioner of Customs.	Act XXIX of 1857 (Land Customs).
Registrars	Act III of 1877 (Registration Act).
Collectors	Act VI of 1878 (Treasure Trove).
Forest Settlement Officers ...	Act VII of 1878 (Forests).
Commissioners, Assistant Commissioner or Deputy Commissioner of Customs	Act VIII of 1878 (Sea Customs).
Collectors	Act I of 1879 (Stamps).
Manager of the Sind Encumbered Estates ...	Act XX of 1881 (Sind Encumbered Estates).
The Tálukdári Settlement Officer	Act XXI of 1881 (Broach and Kaira Encumbered Estates).
Collectors	Act XIV of 1882 (Civil Procedure Code).
The Tálukdári Settlement Officer	Bombay Act VI of 1862 (Ahmedabad Tálukdárs' Relief).
Collectors	Bombay Act II of 1863 (Claims to exemption from payment of revenue).
Do.	Bombay Act VII of 1863 (Summary Settlement of claims to exemption from payment of revenue).
Do.	Bombay Act III of 1874 (Hereditary Offices).
The Collector of Bombay	Bombay Act II 1876 (Land Revenue, Bombay City).
Collectors	Bombay Act III of 1878 (License tax).
Do.	Bombay Act V of 1878 (Abkári).
Commissioners, Survey Commissioners, Collectors, Superintendent of Survey, Survey Settlement Officers.	Bombay Act V of 1879 (Bombay Land Revenue Code).
Canal Officers, Collectors, and Commissioners ...	Bombay Act VII of 1879 (Irrigation).
Commissioners	Factories Act of 1881.

4. Postage charges on all processes, notices and such other documents as are issued from any judicial or revenue Court are to be defrayed by means of postage service stamps and not to be levied from the parties. (G. R. 2711, J. D., of 29th April 1882.)

5. Circular No. 83, at pages 46 and 47 of the High Court's Civil Circulars as to the scale of fees to be levied in the partition of estate by the Collector having been cancelled, Collectors are left free to use their powers under the Bombay Land Revenue Code for the levy of the costs of the partition in execution of a Civil Court's decree of estates paying revenue to Government. (G. R. 1993, 14th April 1890, J. D.)

6. As to proceedings under section 320 of the Civil Procedure Code, *see* the additional order given in Part XV of this compilation.

REDUCTION AND REMISSION OF COURT-FEES BY THE GOVERNOR GENERAL IN COUNCIL.*

(Notn. No. 7019, *B. G. G.*, 1889, Pt. I., p. 807, republishing 4650 G. of I., of 10th

Under section 35 of the Court-fees Act, VII of 1870, and in supersession of all previous notifications under that section, the Governor General in Council has been pleased to make the reductions and remissions hereinafter set forth, namely :

A.—General for the whole of British India.

(1) to remit the fees chargeable on applications presented to a Collector for refund of the amount paid to the Government for stamped paper which has become spoiled or unfit for use, or is no longer required for use, and on applications for renewal of stamped paper which has become spoiled or unfit for use ;

(2) to remit the fees chargeable on applications in writing relating exclusively to the purchase of salt which is the property of the Government ;

(3) to direct that, when a plaint disclosing a reasonable case on the merits is presented to any Civil or Revenue Court in such a form that the presiding Judge or officer without summoning the defendant, rejects it not for any substantial defect but on account of an entirely technical error in form only, and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the district in which the Court is situated, together with a certificate from the Judge or officer who rejected the plaint that it was rejected under the circumstances above described, and that the value of the stamp should, in his opinion, be refunded ;

(4) to remit the fees chargeable on—

(*a*) copies of village settlement-records furnished to land holders and cultivators during the currency or at the termination of settlement-operations ;

(*b*) lists of fields extracted from village settlement-records for the purpose of being filed with petitions of plaint in Settlement Courts ;

Provided that nothing in this clause shall apply to copies of judicial proceedings, or to copies of village or settlement-records (other than lists of fields extracted as aforesaid) which may be filed in any Court or office ;

(5) to declare that the fee chargeable on a plaint filed in a suit for possession of immoveable property under section 9 of the Specific Relief Act, I of 1877, shall be one-half of the amount prescribed in the scale of fees for plaints mentioned in article 1 of the first schedule ;

(6) to direct that the fee chargeable on appeals from orders under section 244 of the Code of Civil Procedure, Act XIV of 1882, shall be limited to the amounts chargeable under article 11 of the Second Schedule ;

(7) to remit the fees chargeable on security bonds for the keeping of the peace by, or good behaviour of, persons other than the executants ;

(8) to remit the fee payable under article 1, clause (*c*), of the Second Schedule on an application or petition presented to a Chief Commissioner, when the application or petition is accompanied by a petition to the Government of India and contains merely a request that that petition may be forwarded to the Government of India ;

(9) to remit the fees chargeable under articles 6, 7 and 9 of the First Schedule on copies furnished by Civil or Criminal Courts or Revenue Courts or Offices for the private use of persons applying for them :

Provided that nothing in this clause shall apply to copies when filed, exhibited or recorded in any Court of justice or received by any public officer ;

(10) to remit the fees chargeable, under paragraph 4 of clause (*a*) and paragraph 2 of clause (*b*) of article 1 of the Second Schedule, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount :

Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application.

* For reductions and exemptions under the Stamp Act—*vide infra* p. 328.

(11) to remit, with reference to clause xi of section 19 of the Act, the fees chargeable on applications for leave to occupy under direct engagement with the Government land of which the revenue is settled, but not permanently, when made by persons who do not at the time of application hold the land;

(12) to remit the fees chargeable on application for loans under the Land Improvement Loans Act, XIX of 1883, or the Agriculturists' Loans Act, XII of 1884:

(13) to remit the fee chargeable on an application made by a person to the Collector under the second paragraph of section 39 of the Indian Stamp Act, I of 1879, for the return to that person, or to the registration-officer who impounded it, of a document impounded and sent to the Collector by a registration-officer;

(14) to remit the fee chargeable on an application made for transfer of a stock-note from one circle to another under paragraph 6 of Resolution No. 2566, dated the 20th August 1885;

(15) to remit the fees chargeable on the following documents, namely:

(*a*) copy of a charge framed under section 210 of the Code of Criminal Procedure, 1882, or of a translation thereof, when the copy is given to an accused person;

(*b*) copy of the evidence of supplementary witnesses after commitment, when the copy is given under section 219 of the said Code to an accused person;

(*c*) copy or translation of a judgment in a case other than a summons-case, and copy of the heads of the Judge's charge to the jury, when the copy or translation is given under section 371 of the said Code to an accused person;

(*d*) copy or translation of a judgment in a summons-case, when the accused person to whom the copy or translation is given under section 371 of the said Code is in jail.

(*e*) copy of an order of maintenance, when the copy is given under section 490 of the said Code to the person in whose favour the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid;

(*f*) copy furnished to any person affected by a judgment or order passed by a Criminal Court of the Judge's charge to the jury, or of any order, deposition or other part of the record, when the copy is not a copy which may be granted under any of the preceding sub-clauses without the payment of a fee, but is a copy which, on its being applied for under section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment;

(*g*) copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of the Government before any Criminal Court;

(*h*) copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation, for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceedings;

(*i*) copies of judgments or depositions required by officers of the Police Department in the course of their duties;

(16) to direct that the fee chargeable—

(*a*) on an application to a Collector, or to any officer or person discharging all or any of the functions of a Collector, with respect either to liability to assessment or to the amount of an assessment under Act II of 1886 (*an Act for imposing a tax on income derived from sources other than agriculture*), and

(*b*) on a copy of an order passed under section 26 of the same Act,

shall be limited to one anna;

(17) to remit the fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office;

(18) to direct that, when a part of an estate paying annual revenue to the Government under a settlement which is not permanent is recorded in the Collector's register as separately assessed with such revenue, the value of the subject-matter of a suit for the possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the computation of the amount of the fee chargeable in the suit, be deemed not to exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share;

(19) to direct that, if the amount of the fee chargeable in any case involves a fraction of an anna, the fraction shall be remitted, except where otherwise expressly provided by this notification;

Special for the Bombay Presidency only.

(24) to remit the fees chargeable under the Second Schedule on agreements required by Rule 75 of the rules made by the Governor of Bombay in Council under clause (*i*) of section 214 of the Bombay Land Revenue Code (Bombay Act V of 1879);

(25) to direct that the fee chargeable on a plaint presented under the Mámlatdárs' Courts Act (Bombay Act III of 1876) shall not exceed eight annas;

(26) to reduce to a uniform rate of four annas per copy the fee chargeable under article 7 of the First Schedule on copies of decrees or orders having the force of a decree issued by Mámlatdárs under the Mámlatdárs' Courts Act (Bombay Act III of 1876);

(27) to remit the fees chargeable under article I of the Second Schedule on all applications made to a Collector or other Revenue-officer, or to the Chief Controlling Revenue authority, by any of the undermentioned political pensioners, being the eldest sons or representatives of the ex-Amirs of Sind and Sirdars of note :

District.	Number and Names of Pensioners.
Karáchi ...	1. Jám Murad Ali, son of Jám Mehr Ali, Jokia.
Hyderabad ...	1. His Highness Mir Hasan Ali Khan, son of Mir Nasir Khan, Tálpur. 2. His Highness Mir Nur Muhamad Khan, son of Mir Hassan Ali Khan, Tálpur. 3. His Highness Mir Fateh Khan, son of Mir Sher Muhammad Khan, Tálpur.
Shikárpur ...	1. Mir Imám Baksh Khan, son of Mir Muhammad Hasan Khan. 2. Mir Walidad Khan, son of Mir Muhammad Hasan Khan. 3. Mir Ahmed Khan, son of Mir Muhammad Hasan Khan. 4. Mir Fazl Hasan Khan, son of Mir Sohrab Khan. 5. 3rd Dehra of the late Mir Muhammad Hasan Khan. 6. 1st Dehra of the late Mir Sohrab Khan. 7. 2nd Dehra of the late Mir Sohrab Khan. 8. Mir Najaf Ali Khan valad Mir Ali Akbar Khan. 9. Abdul Kadir Khan valad Mir Ali Akbar Khan.
Shikárpur—*continued.*	10. Mir Ali Madat Khan, son of Mir Nasir Khan. 11. Mir Ali Ahmed Khan valad Mir Nasir Khan. 12. Bibi Vilayat, 2nd Dehra of the late Mir Nasir Khan. 13. Chand Bibi, 3rd Dehra of the late Mir Nasir Khan. 14. Naz Bibi, 2nd Dehra of the late Mir Muhammad Ali Khan. 15. Mir Mubarak Khan valad Mir Wali Muhammad Khan. 16. Mir Gul Hasan Khan valad Mir Wali Muhammad Khan. 17. Mir Khan Muhammad Khan valad Mir Wali Muhammad Khan. 18. Mir Yar Muhammad Khan valad Mir Wali Muhammad Khan. 19. Bibi Chanae, 1st Dehra of Mir Wali Muhammad Khan. 20. Mir Ali Baksh Khan valad Mir Fazl Muhammad Khan. 21. Mir Amir Baksh Khan valad Mir Fazl Muhammad Khan. 22. Mir Gulam Murtaza Khan valad Mir Chakar Khan. 23. Chief Dehra of the late Mir Ali Muhammad Khan. 24. 2nd Dehra of the late Mir Ali Muhammad Khan.

(28) to remit the fees chargeable on plaints under section 16 of the Dekkhan Agriculturists' Relief Act, XVII of 1879, except in the district of Sátára, where the said fees shall be reduced to one-half;

(29) to remit the fees chargeable in respect of the documents specified in the First or Second Schedule in the case of suits for the redemption of mortgaged property when the plaintiff or, where there are several plaintiffs, any one of the plaintiffs is an agriculturist, and when such suits are instituted within the districts of the Bombay Presidency in which the Dekkhan Agriculturists' Relief Act, XVII of 1879, is in force, except in the district of Sátára, where the said fees shall be reduced to one-half;

(30) to remit the fees chargeable in respect of powers-of-attorney furnished to relatives, servants or dependents under section 68 of the Dekkhan Agriculturists' Relief Act, XVII of 1879;

(31) to remit the fees chargeable in respect of the documents specified in the First or Second Schedule in the case of suits instituted before village-munsifs under Chapter V of the Dekkhan Agriculturists' Relief Act, XVII of 1879;

(32) to remit the fees chargeable in respect of proceedings taken under section 19, second clause, of the Dekkhan Agriculturists' Relief Act, XVII of 1879;

(33) to remit the fees chargeable in respect of proceedings in matters relating to insolvency under Chapter IV of the Dekkhan Agriculturists' Relief Act, XVII of 1879;

(34) to reduce to one-half the fees chargeable in the case of suits to which Chapter II of the Dekkhan Agriculturists' Relief Act, XVII of 1879, applies, except suits of the description mentioned in section 3, clause (*y*) or clause (*z*), of that Act to which an agriculturist is not a party :

Provided that, when the reduced fee amounts to a fraction of an anna, the fee chargeable shall be one anna;

(35) to remit the fees chargeable on copies of documents furnished by a Court of Session or the High Court in the Presidency of Bombay, or by the Sadar Court in Sind, to a pleader appointed by the Court to defend a person accused of murder;

Special for the Bombay Presidency, Bengal, the North-Western Provinces and Oudh, the Punjáb, Lower Burma, the Central Provinces, Ajmere and Coorg.

(48) To direct that, whenever, upon payment of the full fee, a certificate of administration has been granted under Act XL of 1858 (*an Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) or Act XX of 1864 (*An act for making better provision for the care of the persons and property of Minors in the Presidency of Bombay*), and a fresh certificate is for any reason subsequently granted in respect of the same estate, no fee shall be chargeable upon the fresh certificate so granted.

RULES FOR THE REFUND OF VALUE OF IMPRESSED COURT-FEE STAMPS AND ADHESIVE LABELS.

In supersession of all existing orders on the subject, the Governor General in Council is pleased to authorise the refund of the value of impressed Court-fee stamps and of Court-fee adhesive labels in accordance with the following rules :—

1 (*a*) When any person is possessed of impressed Court-fee stamps for which he has no immediate use, or which have been spoiled or rendered unfit or useless for the purpose intended, or

(*b*) When any person is possessed of two or more (or in the case of denominations below Rs. 5, four or more) Court-fee adhesive labels *which have never been detached from each other* and for which he has no immediate use,

the Collector shall, on application, repay to him the value of such stamps or labels in money, deducting one anna in the rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction that they were purchased by him with a *bonâ fide* intention to use them, that he has paid the full price thereof and that they were so purchased or, in the case of impressed Court-fee stamps, so purchased, spoiled or rendered useless, within the period of six months preceding the date on which they are so delivered. Provided that Local Governments may, in special cases, allow refunds when application is made within one year from the date of purchase of the stamps or labels, or, also in the case of impressed Court-fee stamps, within one year from the date on which the stamps were spoiled or rendered useless. The Local Governments may at their discretion delegate this power to any subordinate authority.

"2. When a licensed vendor surrenders his license or dies, the Collector may, at his discretion, if he considers that the circumstances justify the application, repay to him or his representatives, as the case may be, the values of stamps and labels, not spoiled or rendered unfit for use, returned into the Collector's store, deducting one anna in the rupee; or he may issue stamps and labels of other values in exchange, provided that, in the case of adhesive Court-fee labels their value may not be refunded nor stamps and labels of other values issued in exchange, unless, in cases where the value of each label is not less than Rs. 5, there are at least two such labels which have never been detached from each other; and in cases where the value of each label is less than Rs. 5 unless there are at least four such labels which have never been detached from each other.

"3. When adhesive labels are attached to impressed sheets of Court-fee stamps in accordance with the directions contained in Notification by the Government of India in this Department, No. 361, dated the 18th April 1883, such labels should be regarded as impressed stamps for the purposes of refund under these rules. (Government of India, Resolution No. 132, dated 11th January 1888, quoted by the Bombay Government Resolution No. 819, dated 6th February 1888, R. D.)

ORDERS AND OPINIONS IN CONNECTION WITH THE COURT-FEES ACT.

Schedule I.—Article 9.

Proceedings under B. Act III of 1874.

Letter from the Acting L. R.:—"A Court-fee is leviable under Article 9 of Schedule I of VII of 1870 (the Court Fees Act) in respect of all orders or proceedings passed after investigation under Bombay III of 1874.

"2. It may be doubted whether proceedings or orders under the Bombay Hereditary Offices Act come within the meaning of the word 'revenue' used in Article 9 of Schedule I of Act VII of 1870. But if an investigation has been made, they would be covered by the word 'judicial' in that article (Section 71 of Bombay III of 1874).

"3. Purely departmental or office orders in which there is no investigation or appeal such as orders under section 64 (*c*) and mere orders to register facts already recorded according to law or under the orders of Government (section 76) are of course not within the meaning of Article 9 of Schedule I of the Court Fees Act as they are neither Revenue nor Judicial orders, and no copies of mere *orders* from an office unless they come under the description of an 'account, statement, report or the like,' are liable to fees." (G. R. No. 1885, 9th March 1889, R. D.)

Sub-Registrar's reasons for refusing a document not revenue or judicial record.

Memo. from the L. R.:—"The record of a Sub-Registrar's reasons for refusing to admit a document to registration is not 'a revenue or judicial proceeding' within the meaning of Article 9, Schedule I. of the Court Fees Act, and certified copies of such reasons are properly chargeable with stamp-duty under Article 22, Schedule I. of the General Stamp Act." (G. R. No. 2752, dated 12th April 1886, R. D.)

Memo. from the L. R.:—"The Inspector-General of Registration's question turns upon whether letters of administration are a 'judicial proceeding' within the meaning of Article 9, Schedule I of the Court Fees' Act (VII of) 1870 or not. In my opinion they are not, and therefore, copies of letters of administration are, I think, rightly charged with stamp-duty under Article 22, Schdule I. of the General Stamp Act and not with a Court-fee." (G. R. No. 8714, dated 10th December 1886, R. D.)

Schedule I.—Article 22.

Article 22 of Schedule I of the Indian Stamp Act, 1879, "must refer to copies of, or extracts from, records which a public officer is bound by law to keep." It is quite clear that the law in question must be the law for the time being in force in British India. (G. R. No. 4091, dated 5th July 1887, R. D.)

Schedule II.— Article I, Clause b.

"The Mámlatdárs Courts Act does not require defendants to file written statements, nor is it contemplated by that Act that a written statement should ever be put in. The Mámlatdár is apparently expected by examination of the defendant, or his pleader, to ascertain what his defence is. But if in a rare case the Mámlatdár permits the defendant to file a written statement, there is nothing in the Court Fees Act, that renders such a statement liable to a court-fee. If it takes the form of an application or petition, then, under the second paragraph of clause (*b*), Article 1 of Schedule II of the last-named Act, it will be liable to a court-fee of 8 annas." (G. R. No. 1267, dated 11th February 1885, R. D.)

Applications.

Full Stamp Duty on Reminders.

The practice of affixing a one-anna court-fee stamp to applications or petitions of the nature of reminders should be discontinued, and in future the full stamp duty authorized by law should be required thereon. (G. R. No. 6322, dated 13th September 1882, R. D.)

Reports are not Applications.

An Inámdár's report on attaching a defaulter's property under section 90, Bombay Land Revenue Code, is not an application and does not require to be stamped. (G. R. No. 987, dated 11th June 1882, R. D.)

Notices to Municipalities are not Applications.

Memo. by L. R. :—The notice required by section 33 of the Bombay District Municipal Act is not an application or petition within the meaning of Schedule II, Article I (*a*), paragraph 3 of the Court Fees Act, 1870, and is therefore not liable to payment of a court-fee. (G. R. No. 4408, dated 19th June 1884, J. D.).

Optional Applications.

"No formal application seems necessary either for the adjournment of an Income Tax appeal or to inform the court that a compoundable offence (not being one under sections 324, 335, 337 or 338, Indian Penal Code) has been compounded. In the case of offences under these four sections formal application to compound appears requisite.

"To requests which need not be made as formal applications the first two paragraphs of High Court Circular 52 A of 19th February 1884 (published on page 150 of the *Government Gazette* for that year) appear applicable. For convenience of reference they are transcribed below :—

"'As the law does not require any formal application to be made for the return of documents under section 142 or section 144 of the Code of Civil Procedure, they may be returned to the persons entitled to receive them on their oral request, and on taking their receipt in writing in the usual form.

'In case any such person chooses to make his request in writing, the paper, as this is optional, need bear no stamp.'" (G. R. No. 66, dated 5th January 1888, R. D.)

Affidavits.

Report by the Remembrancer of Legal Affairs :—

"Government Resolution No. 2308 of 12th June 1871 does not, in terms, apply to affidavits. It refers to 'powers-of-attorney or other like documents.' An affidavit is scarcely *ejusdem generis* as a power-of-attorney, but, in Sind and possibly elsewhere also, the Resolution has been understood as applying to affidavits. It is competent, I think, to Government now to reconsider the Resolution and direct specifically whether it shall be held applicable to these documents or not.

"2. The Judicial Commissioner doubts 'whether it would be lawful for Government to direct that any particular class of officer administering the oath of a declarant of an affidavit should not certify that he has done so till a Court-fee label of one rupee is attached to the affidavit on account of his signature.' The Resolution requires the payment of a fee by way of a charge for certain services rendered by public officers to private individuals over and above any official obligation imposed upon such officers by law. I am not aware of any law which imposes upon any Court or public officer the duty of attesting affidavits. If Government permit their officers to attest such documents, it is, I think, open to Government to require the convenience to the applicants and the loss of the public officers' time to be paid for. Section 197 of the Civil Procedure Code indicates what public functionaries may administer the oath of a declarant in the case of any affidavit under that Code, but it does not require any of the said functionaries, on application, to administer the oath to a declarant and attest his affidavit and there is nothing in its provisions which appears to me to be inconsistent with the requirement of Government that a charge shall be paid for the attestation. The second paragraph of section 196 of the Civil Procedure Code, on the other hand, recognizes that affidavits cannot be made without 'cost.'" (G. R. No. 429, dated 21st January 1887, J. D.)

Report by L. R. :—"Affidavits are chargeable under Article 3, Schedule I. of Act I of 1879, with a stamp-duty of one rupee, except when made in the circumstances under which Article 1 of Schedule II. of that Act declares them to be exempt.

"Affidavits are not chargeable with a Court-fee, not even those affidavits which by reason of their being made 'for the immediate purpose of being filed or used in any Court or before the officer of any Court' are exempt from stamp-duty. The reason for affidavits made for judicial purposes being exempt from Court-fee as well as stamp-duty is, perhaps, to be found in the fact that, by section 19, Clause XIV. of Act VII of 1870, applications in respect of the production or filing of such affidavits are expressly rendered liable to a Court-fee." (G. R. No. 4374, 28th July 1887, J. D.)

Fees on Affidavits to be distinguished from Stamp Duty and Court-fees.

Memo. by Acting L. R. :—Government may legally require the payment of the prescribed fee in respect of affidavits sworn under section 197 of the Civil Procedure Code and attested by the officers before whom they are sworn.

The fees to be taken under the paragraphs of the preceding Resolution are not stamp duties or court-fees, but mere charges for the services which Government allows its servants to perform for the convenience of the public, though they are not bound by law to perform them.

As the Resolutions are not based on the Court Fees Act, 1870, or Indian Stamp Act, 1879, they do not affect and are themselves unaffected by, the provisions of section 6 of the former Act, or section 34 and Schedule II., Article 1, of the latter Act. (Section 6 of VII of 1870 and section 34 of I of 1879 render inadmissible in Courts of Justice any document or instrument not stamped as required under the Schedules to those Acts. Schedule II of I of 1879 exempts from stamp duty affidavits used for certain purposes). Therefore, on the one hand, the non-payment of a fee, chargeable under the above Resolutions on an affidavit, could not affect its admissibility, and, on the other, the exemption of an affidavit from stamp-duty under the Stamp Act does not disentitle Government to charge a fee for the services of the officer who attests the affidavit, a service which he is not *bound* by any law to perform. (G. R. No. 853, 14th February 1889, J. D.)

Native Chiefs, not exempt from Stamp Laws.

Whenever a Chief, Tálukdár, or any person of rank invokes the authority of a British officer, especially on account of property situated, or transactions effected, in British territory, he must do so subject in every respect to the laws and regulations applicable to British Subjects. When an application made to British Courts or officers is such, that a particular form, stamp, or procedure is required by law, the functionary is not at liberty to dispense with, and thus to proclaim himself superior to, the law. So also on the part of the applicant, his application implies for the purpose in hand a submission to the law, and to the system of law with its accessories which he invokes, and he cannot, as an applicant or suitor, demand terms differing from those prescribed by law. (G. R. No. 2740, 17th April 1888, P. D.)

Copies

Memo. by the L. R. :—" Article 8, Schedule I. of the Court Fees Act, applies only to a copy which is (1) a copy of a document liable to stamp-duty under the General Stamp Act, and (2) which is left by a party to a suit or proceeding in place of the original withdrawn. It does not apply to copies of documents on plain paper which are not produced in original by reason of their being entries in books or such as would not become void or useless by force of the decree. These copies are not certified copies and,—the original documents not having been filed according to law,—cannot be said to have been left in place of the original documents withdrawn as contemplated by Article 8 of Schedule 1 of the Court Fees Act." (G. R. No. 1608, 27th February 1886, R. D.)

Cancellation of Stamps.

" Section 26 of the Court Fees Act contemplates that the stamps to be used to denote any fee chargeable under that Act may be either impressed or adhesive or partly impressed and partly adhesive; and yet section 30 enacts that the stamp is in every case to be cancelled before the document which bears it is acted upon in any Court or office. From this the necessary inference is that the Legislature intended the figure-head of the stamp to be punched out whether the stamp is adhesive or impressed, and this direction of the law is binding upon all courts and offices." (G. R. No. 6641, dated 8th September 1883, R. D.)

Destruction of Court Fee Registers.

" The High Court has recently framed rules for the destruction of useless records of District and Subordinate Courts (including Courts of Village Munsiffs under Act XVII of 1879) which have been forwarded for the sanction of the Government of India; Rules 12 and 13 of those rules provide that Court-fee books and daily registers of Court-fees realized in the said Courts should be destroyed after the expiration of six years; Government are of opinion that registers of Court-fees kept in the Revenue Courts and offices should also be preserved for six years." (G. R. No. 8624, 19th December 1887, R. D.)

Register Books.

It is incumbent on all Revenue officers to keep a register of Court-fees received by them and Government see no reason to make an exception in favour of the Forest Department. (G. R. No 2150, dated 7th April 1888, R. D.)

PART XI.

The following Rules framed by the Inspector-General of Registration, Bombay, in exercise of the powers conferred by the Indian Registration Act, 1877, in supersession of all Rules at present in force under section 2 of that Act, having been approved and sanctioned by Government, are published for general information :—

I.—Register Books.

1. The Register Books, Nos. I to V, prescribed in section 51, shall be kept in the forms of Appendices A, B, C, D and E, respectively. When the stock of books issued under Act XX of 1866 or Act VIII of 1871 in any office is likely to last for any length of time, the Inspector-General will issue directions for the re-numbering or re-labelling of such books, so as to adapt them for use under the present Act.

(*B.G.G.*, 1878, Pt. I., pp. 126—156.)

Forms of Register Books, Nos. I to V.

2. For the purposes of sections 64, 65, 66 and 67 a separate Paste-Book forming a supplement to Book No. I is to be kept, to be called "Supplement to Book No. I, Part I," copies of maps or plans, such as those mentioned in section 21, should be filed in a Paste-Book, forming another Supplement, to be called "Supplement to Book No. I, Part II," and certificates under the Land Improvement Act, 1871, received by a Registering Officer under section 89 should be filed in another supplement, to be called "Supplement to Book No. I, Part III."

Supplements to Book No. I.

3. It shall be the duty of every Registering Officer on receiving a new register book, to count the pages, and satisfy himself that the number of pages corresponds with that given in the certificate on the title-page. If the number be found correct, he shall certify to that effect on the title-page. If there be a discrepancy, he shall return the book for correction to the officer from whom it was received.

Examination of new Register Books.

4. The volumes of each Register Book shall be numbered in a consecutive series, which shall not terminate with the year but be carried on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year; but a fresh numerical series of entries must be commenced each year as required by section 58. When the amount of copying is great, two or more volumes of Book Nos. I, III, or IV may be used simultaneously. When two volumes are thus in use at the same time, documents bearing an even number should be copied into one, and those bearing an odd number into the other.

Numbering of the consecutive volumes of Register Books.

II.—Indexes.

5. Indexes Nos. I to IV, prescribed in section 55, shall be kept in the forms of Appendices F, G, H and I, respectively.

Forms of Indexes, Nos. I to IV.

Language in which the Indexes are to be prepared.

6. In Registrars' Offices these Indexes are to be prepared in English, in Sub-Registrars' Offices in the vernacular language of the sub-district.

Manner of preparing Indexes.

7. In preparing the Indexes the transliteration table given in Appendix J should be followed. English names should be indexed under the first letter of the person's family name; native names under the first letter of the person's proper name, all prefixes denoting rank, occupation, or caste being put into the column for profession, rank, &c. The names of Native Christians, who have Christian names, and family names, should be indexed in the same manner as English names. In the case of a Native Christian who has no family name, and who adds his father's name or the name of his village to his own, the name should be indexed in the same manner as an ordinary native name.

Manner of indexing documents executed by, or on behalf of Government or by an Attorney or Guardian, or by a Company or Corporation.

8. All documents executed by or on behalf of Government should be indexed under "Government" in English, and "Sircar" in the vernaculars. A document executed under the authority of a power-of-attorney should be indexed in the name of the principal, a document executed by a guardian on behalf of a minor in the name of the minor, and a document executed by, or on behalf of a company, or corporation, in the name of such company or corporation.

But in every case contemplated by this rule the name and occupation of the actual executant should be shown in column 3 of Index No. I or IV, and in brackets in column 4 of Index No. II, immediately below the name in which the document is indexed.

Index entries of copies, memoranda, and certificates how to be made.

9. The index entries of copies, memoranda, or certificates, filed under sections 64, 65, 66, 67 and 89 should be in red ink, but are to be made in the same Indexes and in the same manner as entries concerning documents copied in Book No. I.

What to be considered the "date of registration" for the purposes of the Indexes.

10. In entering the date of registration in any of the Indexes, the date of the certificate of registration required by section 60 shall be taken to be the date of registration: but in the case of copies or memoranda filed in the Supplement to Book No. I, Part I, or of certificates under the Land Improvement Act, 1871, filed in the Supplement to Book No. I, Part III, the date of filing such copies, memoranda, or certificates shall be considered the date of registration.

Entries in Indexes where there are several executants or the property is situate in several different villages.

11. In Index No. I, column 1, when there are several executants of a deed, a separate entry shall be made under the name of each in its proper alphabetical place in this form, viz., "Gopal Narayan, and four others."

The same rule shall apply *mutatis mutandis* to the names of villages in column 1 of Index No. II, when the property is situate in several villages within the same district or sub-district.

Method of using the loose sheets supplied for Indexes.

12. The Indexes Nos. I, II, III and IV will be supplied to Registering Officers in loose sheets bearing all the letters of the alphabet printed on their lower margins. A Registering Officer, desiring to employ one of such sheets for the purpose of indexing under any particular letter, will remove all the letters below the required Index letter by cutting them out, and cancel all those appearing above such required letter by drawing an ink line through them. The page of each Index should be arranged alphabetically before being bound up.

Copies of entries in Indexes Nos. I., II. and III. when to be sent by Sub-Registrars to the Registrars.

13. The copies of entries in Indexes Nos. I and II, which Sub-Registrars are required by section 56 to send to the Registrars to whom they are respectively subordinate shall be so sent by them on the 1st of every third month. And the copies of entries in Index No. III shall be so sent by them once a year in the month of January.

Arrangement and binding of copies of Indexes Nos. I. and II. and of original Indexes.

14. The copies of entries in Indexes Nos. I and II received by the Registrars under the last rule should be filed according to sub-districts so as to prevent their getting mixed up, and at the end of the year should be bound into volumes. In binding, the volumes containing copies of entries in Index No. I should be distinct from those containing copies of entries in Index No. II.; but each Sub-Registrar's copies of entries in each Index for one year may be bound into one or more volumes, or the copies of entries in each Index for the same period of several Sub-Registrars may be bound up into a single volume, as may be most convenient. The Registrars and Sub-Registrars' own original Indexes Nos. I and II should be bound into volumes in a similar manner, but if it be deemed advisable, a Registrar's own original Indexes Nos. I and II may be bound up in the same volumes which contain the copies of Indexes Nos. I and II. respectively for the same year, received under Rule 13 from the Sub-Registrars.

15. The copies of entries in Index No. III. received by each Registrar should, together with the Registrar's own Original Index No. III, be either bound into one yearly volume for the entire district or into one district volume for several years as may be most (Notn. No. 3663, *B. G. G.*, Pt. I., p. 5566.)

convenient, the sheets being carefully arranged according to the offices to which they relate. In each Sub-Registry Office the Original Index No. III for each year should be either bound into a separate volume or if more convenient that Index for several years may be bound together.

Manner of filling in Columns 7, 8, 9 and 11 of Index No. III.

16. Columns 7, 8, 9 and 11 of Index No. III should not be filled in until it has been ascertained beyond dispute that the testator or donor, to whose will or authority to adopt the index entry relates, is dead. If the fact of such death is not ascertained till after the copy of the Index in which the entry was made has been sent by the Sub-Registrar to the Registrar, the Sub-Registrar shall immediately forward to the Registrar a statement of the particulars to be inserted in the said columns, and the Registrar shall thereupon cause the said particulars to be duly entered in the copy of the Sub-Registrar's Index filed in his office.

III.—MISCELLANEOUS RECORDS AND ACCOUNT BOOKS.

Index of Book No. II.

17. At the end of every year an alphabetical index shall be prepared at the end of Book No. II of all entries in such book according to the form given in Appendix K.

List of Powers-of-Attorney authenticated.

18. Every Registering Officer shall keep a list of the powers-of-attorney authenticated by him under section 33. It shall contain the following headings :—

(1) Consecutive number; (2) date; (3) name of the principal executing the power; (4) his profession, trade, rank, or title; (5) name of the attorney; (6) names of the persons, if any, who identified the principal; and (7) the nature of the power.

Day-Book.

19. Every Registering officer shall keep a Day-Book in the form of Appendix L, in which shall be entered all fees and fines paid at the time of presentation.

Minute Book.

20. Every Registering Officer shall keep a Minute Book in the form of Appendix M, in which he shall briefly enter the name and residence of every person presenting a document for registration, or for any other purpose, or making any application or appeal, together with the nature of such document, application or appeal, and the orders which he may from time to time pass regarding the same, and also all proceedings held by him with regard to the attestation of powers-of attorney.

When a document has been presented for, or admitted to registration, or a power-of-attorney authenticated, either at a private residence or a jail, a minute to that effect shall appear in the Minute Book.

When a document purporting to have been executed by, or on behalf of, Government is presented for registration, that fact shall be specially noted, and it shall be shown in the proceedings recorded in the Minute Book that the Registering Officer has been satisfied of the due execution of the document by an officer who is exempt from personal appearance in the Registration Office under section 88; and when in any case the Registering Officer is acquainted either with the parties admitting execution, or with the witnesses to their identity, he shall make a record to that effect in his Minute Book.

In this Minute Book shall also be recorded the depositions of witnesses, &c., examined by a Registrar when holding an enquiry under section 74, and the order which the Registrar may pass at the close of such inquiry, and the substance of any statement which a Registering Officer may record under section 63.

In a Registrar's Office the Registrar may, with the previous assent of the Inspector General, delegate the duty of writing the minutes under this Rule to his head clerk, for him, the Registrar, to sign. (Notn. No. 3721, *B. G. G.*, 1887, Pt. I., p. 509.)

And in the Sub-Registry Office of Aden the Sub-Registrar may, with the previous sanction of the Inspector General and the Registrar of the district, delegate the duty of writing the minutes under this rule to the head clerk of the Registrar for him, the Sub-Registrar, to sign. (Notn. No. 331, *B. G. G.*, 1888, Pt. I., p. 39.)

Cash-Book.

21. A Cash-Book shall be kept in every Registration Office in the form of Appendix N, in which all fees received for registration, searches or copies, and all moneys recovered from Registering Officers in the shape of fines, percentage allowance on fees refunded to parties, &c., shall be brought to account, and the correctness of each day's total attested by the Registering Officer's signature.

Remittance of balance in hand to Treasury.

22. The fees received for registration, searches, copies, &c., shall be remitted daily to the nearest Treasury, and the signature of the officer in charge of the Treasury or the accountant shall be taken in the Cash-Book. In Bombay the fees shall be remitted in the same manner to the New Bank of Bombay. If a Sub-Registrar's office be at a place where there is no Treasury, remittances shall be made to the Treasury whenever the amount in hand exceeds Rs. 50. (Notn. No. 5961, *B. G. G.*, 1886, Pt. I., p. 665.)

Batta Book.

23. A Batta Book shall also be kept in the form of Appendix O in each Registration Office, and all entries therein shall be signed by the Registering Officer on the day on which they are made.

IV.—SAFE CUSTODY OF BOOKS, &c.

Register Books and other records of five years to be kept in a press.

24. The office of every Registrar and Sub-Registrar shall be provided with a strong wooden press or almirah, with a good English lock, sufficiently large to contain the

Register Books and other records of five years. In this press shall be kept, when not required during office hours, all the Register Books and other records and all papers and documents in the custody of the Registering Officer, except, in the case of a Registrar, such documents as he keeps in the fire-proof box supplied to him by Government.

Transfer of Sub-Registrar's records to Registrar's Offices.

25. Every Registrar's office shall be a central office of record for the district, and, save in the case of the district of Bombay, such of the Registration, Cash, Minute, Day and Batta Books of the subordinate offices of the district as, at the commencement of each calendar year, are complete, and date back five years, shall be transferred to it. In the district of Bombay the transfer of completed books from the Sub-Registry offices to the office of the Registrar of the district shall be made as the Inspector General shall from time to time direct. The Indexes of such Sub-Registry Office shall be retained in the office to which they belong.

(Notn. No. 8215, *B. G. G.*, 1889, Pt. I., p. 898.)

Para 2.—Subject to the sanction of the Inspector General of Registration, a Cash, Day or Batta Book may be destroyed after a lapse of six years from the date of the final entry appearing therein.

V.—DESTRUCTION OF USELESS RECORDS, &c.

Destruction of useless Returns and other papers.

26. The following papers, &c., in the Registrar and Sub-Registrar's offices shall be destroyed after the lapse of two whole years from the date on which such papers, &c., or the proceedings to which they relate, were finally disposed of, subject, in the case of a Sub-Registrar's Office, to the sanction of the Registrar of the district. A list shall be kept of the papers so destroyed in the form given in Appendix P.

1.—Fixed and extra contingent bills.

2.—Bills for printing and stationery.

3.—Indents for dead-stock.

4.—Arrears returns and batta returns.

5.—Summonses.

6.—Ordinary correspondence excepting circulars and standing orders and other papers that may be considered useful for reference.

7.—Applications for summonses and warrants under sections 36 and 39.

8.—Applications for searches and inspections under section 57.

9.—Applications for attendance at the private residence of parties.

10.—Applications for leave and reports of appointments and delivering over and receiving charge of any office.

11.—Receipts granted under section 52 or under Rule 35, and subsequently taken back

under Rule 53 or 60, and counterparts of such receipts and counterparts of notices as to documents being ready for delivery.

If the destruction of any papers, &c., other than the foregoing, is desired, the previous sanction of the Inspector General or, in Sind, of the Branch Inspector General must be obtained.

The papers, &c., of which the destruction is sanctioned as above shall be destroyed in the presence of the District Registrar or of a Revenue officer of not lower rank than a Mahálkari. (Notn. No. 8678, *B. G. G.*, 1887, Pt. I., p. 984.)

Destruction of documents under section 85.

27. The documents of which the destruction is authorized by section 85, if they remain unclaimed for a period exceeding two years, shall not be destroyed without the previous sanction of the Inspector General or, in Sind, of the Branch Inspector General, nor until a notice has been duly issued to the parties concerned. The two years shall be reckoned, in the case of documents the registration of which has been refused, from the date of such refusal and, in the case of documents which have been registered, from the date of their registration.

The documents of which the destruction is sanctioned as above shall be destroyed in the presence of the District Registrar or of the Assistant or Deputy Collector. (Notn. No. 8678, *B. G. G.*, 1887, Pt. I., p. 984.)

When a registered document is destroyed, a note recording its destruction shall be entered in the Register Book at the foot of the copy of the document; and when a document, the registration of which has been refused, is destroyed, a similar note shall be recorded in Book No. II, in the column headed "Reasons for refusal to register," at the foot of the entry in that column relating to the document.

In every case the note shall be in red ink, and shall record the fact that the document has been destroyed, subject to the sanction of the Inspector General, or, in Sind, of the Branch Inspector General, and after notice duly issued to the parties concerned.

A list of destroyed documents shall be kept in every Registration Office in the form of Appendix Q.

VI.—LANGUAGES TO BE RECOGNIZED.

Languages in common use.

28. The following languages shall be deemed to be commonly used in the districts named:— (Notn. No. 7915, *B. G. G.*, 1885, Pt. I., p. 1161.)

In the districts of Ahmedabad, Broach, Kaira, the Panch Maháls, Surat and the Deesa Cantonment,—English and Gujaráti.

In the district of Bombay,—English, Gujaráti and Maráthi.

In the districts of Kolába, Ratnágiri, Thána, Ahmednagar, Khándesh, Násik, Poona and Sátára,—English and Maráthi.

In the districts of Belgaum, Kánara, Dhárwár, Kaládgi and Sholápur,—English, Maráthi and Kánarese.

In the district of Aden,—English.

In the districts of Hyderabad, Karáchi, Shikárpur, Thar and Párkar and the Upper Sind Frontier,—English, Sindhi and Persian.

VII.—TERRITORIAL DIVISIONS.

Territorial divisions to be recognized under section 21.

29. The following territorial divisions shall be recognized under section 21 (namely), in the Mofussil,—the registration district, the sub-district, the táluka, and the village or township wherein the immoveable property affected by the document is situated; within the ordinary original civil jurisdiction of the High Court of Judicature of Bombay, the registration sub-district in which the immoveable property affected by the document is situated.

VIII.—REGULATION OF FINES.

Amount of fines to be charged under section 24 or 34.

30. Fines imposed under section 24 or 34 of the Act shall be of the following amounts, namely:—

If the delay has been less than one month,—2½ times the proper registration-fee.

If more than one month but less than two months,—5 times the proper registration-fee.

If more than two but less than three months,—7½ times the proper registration-fee.

If more than three months,—ten times the proper registration-fee.

IX.—MEMORANDA.

Forms of memoranda under sections 64 to 67.

31. The memoranda of documents required by sections 64, 65, 66 and 67 shall be in the form of Appendix R.

X.—HOLIDAYS.

Holidays to be observed in Registration Offices.

32. The holidays to be observed in Registration Offices are the general holidays allowed by Government in all public offices in the Revenue Department.

XI.—PROCEEDINGS OF REGISTRARS AND SUB-REGISTRARS.

Office Hours.

Registration Offices to be open daily from 11 A.M. to 5 P.M.

33. All Registration Offices shall be open daily, Sundays and holidays excepted, between the hours of 11 A.M. and 5 P.M.

(Notn. No. 6861, *B. G. G.*, 1884, Pt. I., p. 631.)

33A.—The Sub-Registrar of Haveli in the District of Poona shall hold office at the Cantonment Magistrate's Office in the Poona Sadar Bazár every Saturday from 11 A.M. to 2 P.M., commencing from the first Saturday in the month of October 1884, and

shall receive for registration at that place any documents which may be presented to him for that purpose whilst he is holding office there.

During the hours specified above, the office of the said Sub-Registrar at his head-quarters will be closed.

The Sub-Registrars of the Sub-Districts hereinbelow specified shall hold office at the places in their respective sub-districts hereinbelow mentioned on the dates specified and shall receive for registration at those places any documents which may be presented to them for that purpose while they are holding office there :— (Notn. No. 990, *B. G. G.*, 1885, Pt. I., pp. 144-145.)

Sub-Districts.	Districts.	Places at which office is to be held.	Dates on which office is to be held.
Thásra... ...	Kaira ...	Dákor	From the 2nd Monday to the following Saturday, both days inclusive, in each month.
Olpád	Surat ...	Ránder	
Jávli	Sátára ...	Malcolmpeth(Mahábaleshvar.)	The 1st Monday and Tuesday in each of the months of March, April and May.

During the periods named in the final column of the above statement the offices of the said Sub-Registrars at their head-quarters will be closed. (Notn. No. 1764, *B. G. G.*, 1891, p. 231, 9th March 1891.)

The Sub-Registrar of Mehmadabad in the district of Kaira shall hold office from 1st to 15th, inclusive, of each month at Kaira and for the remainder of the month at Mehmadabad. and shall receive for registration at those places any documents which may be presented to him for that purpose while he is holding office there. During the absence of the Sub-Registrar at Mehmadabad his office at his head-quarters at Kaira will be closed.

Commencing in May next the Sub-Registrar of Parántij in the district of Ahmedabad shall hold office at Modása in the petha of that name on the first Monday, Tuesday, Wednesday, Thursday and Friday in the months of January, March, May and November, and shall receive for registration any document which may be presented to him for that purpose whilst he is holding office there. (Notn. No. 3045, *B. G. G.*, 1885, Pt. I., p. 508.)

During the first Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of each of the months named the office of the above Sub-Registrar at his head-quarters will be closed.

Commencing in April next the Sub-Registrar of Belgaum in the district of Belgaum shall hold office at the town of Halkarni in the petha of Chandgad in the same district, on the first Monday, Tuesday and Wednesday in each month, and shall receive for registration any documents which may be presented to him for that purpose whilst he is holding office there. (*B. G. G.*, 1885, Pt. I., p. 312.)

During the first Monday, Tuesday, Wednesday and Thursday in each month the office of the above Sub-Registrar at his head-quarters will be closed. (G. N. No. 2054 of 4th March 1885.)

The Sub-Registrars of the sub-districts hereinbelow specified shall hold office on one or more days (Notn. No. 10328, *B. G.*

G., 1885, Pt. I., p. 1423.)

between the 11th and 20th, both days inclusive, of each of the months of January, March, May and November at each of the places in their respective sub-districts hereinbelow mentioned, and shall receive for registration at those places any documents which may be presented to them for that purpose whilst they are holding office there.

During the above periods the offices of the said Sub-Registrars at their head-quarters will be closed.—

Sub-Districts.	Districts.	Places at which office is to be held.
Dhandhuka	Ahmedabad... ...	Dholera. Rámpur.
Viramgám	Do. ...	Mandal.
Dholka	Do. ...	Barla. Koth.
Sinnar	Násik	Devpur.
Niphád	Do.	Saykheda.
Sálsette	Thána	Kurla. Bándra. Chembur. Andheri.
Bassein	Do.	Sopore. Nole.
Panvel	Kolába	Apte. Chirwar.
Dhárwár	Dhárwár	Gadag.
Navalgund	Do.	Nargund. Annigeri.
Násik*	Násik	Trimbak. Girwári.

(Notn. No. 1553, B. G. G., 1886, Pt. I., p. 649.)

"The Sub-Registrar of Karjat in the district of Thána shall hold office at Khálápur in the Khálápur Petha of that district from the second Monday to the following Saturday, both days inclusive, in each month, and shall receive for registration any documents which may be presented to him for that purpose whilst he is holding office there. During the period named the office of the Sub-Registrar at his head-quarters will be closed."

(Notn. No. 4398A., B. G. G., 1888, Pt. I., p. 562.)

"The Sub-Registrar of Haliyál in the district of Kánara shall hold office at Supa in the Supa Petha of that district on the first Monday, Tuesday, Wednesday and Thursday in each of the months of January, March, May and November and shall receive for registration at that place any documents which may be presented to him for that purpose whilst he is holding office there.

"During the absence from Haliyál of the above Sub-Registrar on the occasions abovenamed his office at his head-quarters will be closed."

(Notn. No. 5920, B. G. G., 1889. Pt. I., p. 672.

The Sub-Registrar of Viramgám in the district of Ahmedabad shall hold office in each of the towns of Mandal and Detroj on one or more days between the 11th and 20th, both days inclusive, of each of the months of January, February, March, April, May, June, October, November and December, and shall receive for registration at those places any

* (*Vide* Notification No. 7401, *B. G. G.*, 1883, Pt. I., pp. 772 and 773.)

documents which may be presented to him for that purpose whilst he is holding office there.

During the period mentioned the office of the said Sub-Registrar at his head-quarters will be closed.

The Sub-Registrar of Dádú in the district of Karáchi shall hold office from the first Monday to the following Saturday, both days inclusive, in the months of January, March, May, July, September and November in the town of Johi in the sub-districts of Dádú in the district of Karáchi, and from the first Monday to the following Saturday, both days inclusive, in the months of February, April, June, August, October and December in the town of Phulji in the sub-district of Dádú in the district of Karáchi. (Notn. No. 8568, *B. G. G.*, 1889, Pt. I., p. 942.)

During the absence from Dádú of the Sub-Registrar on the occasions above named his office at his head-quarters will remain closed.

The abovementioned rule will take effect from 1st January 1890.

Reports of Appointments.

Report of appointments under Section 11 or 12.

34. Registrars should report all appointments made by them under section 11 or 12, and all changes in the officers in charge of Registrars' and Sub-Registrars' Offices respectively, in the following forms :—

"*Statement of appointments made under section 11 or 12 of Act III of 1877 between the 1st and 7th of July 1877.*

No.	The names and designations of persons appointed.	To what duties, and whether officiating or substantive.	At what place, and the circumstances under which the vacancy necessitating the appointment has occurred.

No. OF 18 .

Forwarded to the Inspector General of Registration for information.

Registry Office, 18 . } Registrar."

"The following officers have respectively delivered over and received charge of the Registry and Sub-Registry offices hereinafter named on the dates specified against their respective names :—

District.	Office.	Names of Officers delivering over charge.	Names of Officers receiving charge.	Date of the same.	Time.

No. of 18 .

Forwarded to the Inspector General of Registration for information.

Registry Office, 18 . } Registrar."

Receipts.

Receipts to be furnished for every payment, and every document received by a Registering Officer.

35. A Registering Officer visiting a private residence or jail under section 31, 33 or 38, and receiving his travelling expenses from the person at whose application such visit is made, shall give to the applicant a receipt for the sum received, and, if a Sub-Registrar, shall immediately report the amount to the Registrar. Such receipts shall be in the form of Appendix S, and a receipt in the same form shall also be given whenever payment of any fee or fine is made to a Registering Officer unaccompanied by the presentation of any document for registration or deposit.

The receipt to be given under section 52 for a document presented for registration shall be in the form of Appendix T, and a receipt in the same form shall also be given for any document presented for deposit.

Authentication of Powers-of-Attorney.

Form of authentication of powers-of-attorney.

36. In authenticating or attesting powers of attorney under section 33 registering officers should adopt the following forms (namely):—

(Notn. No. 4430, *B. G. G.*, 1885, Pt. I., p. 697.)

Authentication (clause *(a)*, section 33).—Executed by *A.B.* of *C.D.* in my presence on 30th July 1877, his identity being proved by *E.F.* of *G.H.*

Attestation (in case of persons exempted from personal attendance at registration office as per the terms of section 33).—Voluntarily executed by *A.B.* of *C.D.* whereof I have satisfied myself by personal examination of *A.B.* (or by the examination of the said *A.B.* by Commission).

These endorsements shall be signed and sealed by the registering officer authenticating or attesting the power-of-attorney.

Registration.

Presentation endorsement to be written by Registering Officer in his own hand.

37. The endorsement to be made, as prescribed in section 52, on every document presented for registration shall be written by the Registering Officer with his own hand, on the face of the document, in the following form:—

"Presented at the Office of the Registrar, or Sub-Registrar, of between the hours of 2 and 3 P.M., on the 30th July 1877.

If a document is impounded under the Stamp Act, the words "impounded under Section of

the Stamp Act" shall be written on the face of it, and signed by the Registering Officer below the above endorsement.

In a Registrar's office the Registrar may, with the previous assent of the Inspector General, delegate the duty of recording the endorsements under this Rule to his head clerk, or in the Bombay Registry Office, to the assistant head clerks, for him, the Registrar, to sign; (Notn. No. 3921, *B.G.G.*, 1887, Pt. I., p. 509.)

and in the Sub-Registry Office of Aden the Sub-Registrar may, with the previous sanction of the Inspector General and the Registrar of the district, delegate the duty of recording the endorsements under this Rule to the head clerk of the Registrar for him, the Sub-Registrar, to sign. (Notn. No. 331 *B. G.G.*, 1888, Pt. I., p. 39.)

If the executant of, or a person who proposes to present a deed is in doubt about the proper stamp which such deed should bear, and consults a registering officer on the subject before formal presentation, the required information may be given to the former without impounding the deed. (*Vide* Notn. No. 873, *B. G. G.*, 1888, Pt. I., p. 116.)

Fees to be taken and credited at once in Day-Book.

38. The proper fees shall then be taken, and the first four columns in the Day-Book (Appendix L) must be filled in at once.

The daily number under which the document is entered in the Day-Book (Appendix L) and the Minute Book (Appendix M) should be endorsed on the document.

Method of counting folios for fixing copying fees.

39. In calculating copying-fees a fraction of a folio shall be counted as a whole folio. When a document is so short that the copy of it will probably occupy less than one page of the Register Book, the whole number of words should be counted. In other cases the number of folios may be counted by multiplying the average number of words in five different lines in different parts of the document by the number of lines in the document (a fraction of a word being counted as a word), and dividing the result by a hundred.

Note of receipt of fees to be endorsed on the document.

40. On receipt of the fees the Registering Officer shall write on the face of the document a note in the following form:—

" Received fees as follows:—

Registration fee	...	...Rs.
Copying fee (folios)	...	... ,,
[When paid] extra fee for registration by Registrar	...	,,
[When paid] extra registration fee for registration at private residence	...	... ,,
[When paid] attendance fee for do.	...	... ... ,,

[When paid] fee for copies or memo. under sections 64, 65, 66 and 67 ... ... „
[When paid] fine under section 24 ... ... „
[When paid] fine under section 34 ... ... „

Total Rs.

A. B.
Registrar or Sub-Registrar."

(Notn. No. 3921, B.G.G., 1887, Pt. I., p. 509.) In a Registrar's Office the Registrar may, with the previous assent of the Inspector General, delegate the duty of recording the endorsements under this Rule to his head clerk, or, in the Bombay Registry Office, to the assistant head clerks, for him, the Registrar, to sign;

(Notn. No. 33, B.G.G., 1888, Pt. I., p. 39.) and in the Sub-Registry Office of Aden the Sub-Registrar may, with the previous sanction of the Inspector General and the Registrar of the district, delegate the duty of recording the endorsements under this rule to the head clerk of the Registrar for him, the Sub-Registrar, to sign.

Points to be considered before accepting a document for registration.

41. In considering whether a document presented for registration should be accepted for registration, the Registering Officer should not concern himself with questions as to its validity,* but should be careful only to see that it fulfils the following requirements of the law relating to documents presented for registration (namely):—

(1) that the document be properly stamped;
(2) that it be presented within the proper time;†
(3) that it be presented by a competent person;
(4) if it relates to immoveable property, that it is not open to objection under section 21; and
(5) that the provisions of section 19 are complied with, with respect to it, if that section be applicable to it.

Form of Endorsements and Certificate under sections 58 to 60 if document is admitted to registration.

42. If there be no objection, on the face of the document, to its being accepted for registration, the inquiry prescribed in section 34 shall be proceeded with; and if the document is admitted to registration, the endorsements and certificate prescribed by sections 58 to 60 shall be made from time to time in the manner shown in Appendix U.

Admission of receipt of consideration shall only be endorsed when such admission is voluntarily made.

If an executing party admits execution, but takes occasion to deny the receipt of consideration in whole or in part, registration is not on that account to be refused, but the denial of receipt of consideration shall be mentioned in the endorsement.

Vide note on section 69 at the end of this Part. 16 W. R. 180.

†As to time for presentation, *vide* note on section 23 at the end of this Part; 15. B. L. R. 228; 24 W. R. 75; and I. L. R. 11. C. 750.

When the Registering Officer is acquainted either with the persons admitting execution or with the witnesses to their identity, he shall mention the fact in the endorsement.

(Notn. N 6187, B. C 1883, Pt. 599.)

Procedure of Sub-Registrar when application is lodged with him under section 24, or Proviso in section 34.

42A. When an application for a direction under section 24, or under the Proviso in section 34, is lodged with a Sub-Registrar, the Sub-Registrar may, on payment being made to him of the full amount of the fine that may be imposed by the Registrar if he grants the direction, at once proceed with the inquiry prescribed in clauses (*a*), (*b*) and (*c*) of section 34, in anticipation of the order that may be passed by the Registrar upon the application:

Provided that—

(1) nothing in this Rule shall be deemed to affect the power of the Registrar to refuse such application;

(2) if such application is refused, or if the amount of fine imposed by the Registrar when granting the direction applied for is less than the full amount imposable by him, the amount of fine paid to the Sub-Registrar or the excess, as the case may be, shall be refunded to the party who paid it.

Provision where blank space on document is insufficient for the necessary endorsements and certificate.

43. On every document admitted to registration, a blank space is required for the endorsements and certificate prescribed by sections 58 to 60. A space, 6 inches in length and 5 inches in breadth, will ordinarily be sufficient; but when the executing parties are numerous, the space should be proportionately larger. If, in any case, the blank space on the document is insufficient, an extra piece of blank parchment or paper should be firmly gummed on to it, and the Registering Officer, when making the endorsements or certificate, should take particular care that they are not written wholly on the piece attached, but partly on the document itself and partly on the attached piece across the junction of the two.

Value of stamp and stamp-vendor's endorsement to be copied into the Register Books.

44. When a document admitted to registration is being copied, as required by section 52, in the appropriate Register Book, the value of the stamp and the stamp-vendor's endorsement shall invariably be transcribed at the beginning of the copy in such book and also on the memoranda or copies prepared under sections 64 to 67; but these shall not be taken into account when calculating the copying fees.

Compulsory Registration how to be distinguished from Optional in the Registers.

45. In Book No. I compulsory registrations shall be distinguished by the letter "A" appended to the serial number, and optional registrations by the letter "B," and copies,

memoranda, or certificates under sections 64, 65, 66, 67 and 89, filed in supplements to Book No. 1, Parts I and III, shall be distinguished by the serial numbers 1*a*, 2*a*, 3*a*, &c.

*Determination of value of interest affected by a document for purpose of classing such document under this rule.

For the purpose of determining whether the registration of a document in which the value of the interest affected is not specified is compulsory or not, the value of the stamp affixed thereto shall be taken to indicate the value of the interest according to the provisions of the law in force relating to stamped documents.

Transcripts of translations to be written in red ink.

46. The transcript of a translation under section 62 shall be made in red ink.

What endorsements and certificates are to be copied into Register Books Nos. I, III and IV.

47. The following items are to be copied in the column of Books Nos. I, III or IV (as the case may be), headed "Endorsements and Certificate" (namely):—

(1*st*) the daily number endorsed on the document under Rule 38;

(2*nd*) the presentation-endorsement referred to in Rule 37;

(3*rd*) the fee-endorsement required by Rule 40;

(4*th*) the endorsements and certificate required by sections 58 to 60 in the order in which they occur on the document.

Procedure in cases of re-registration.

48. In cases of re-registration the document shall be copied into the Register *in extenso*, and a number shall be assigned to it, precisely as if it had not been previously registered, but a note in red ink to the effect "re-registered at page , volume of Book No. , shall be made in the Register to the first copy of the document in the column headed "Endorsements and Certificate" below the Registering Officer's signature, and such note shall be signed by the officer who re-registers the document The presentation-endorsement (Rule 37) shall be repeated on re-presentation.

Method of noting errors, erasures, &c., in original documents in the copies thereof in Register Books.

49. Errors, erasures, interlineations, &c. in original documents must be copied into the Register Book exactly as they appear in the documents. Marginal notes shall be written in column 1, explanatory of such errors, &c., in the following manner: in the case of interlineations, additions, or mis-spellings, by a single mark "X," in red ink over them, with a similar mark "X," in red ink, in column 1, and the word "sic," or the corresponding word in the vernacular in the same column; in the case of an erasure, by two marks "XX," in red ink, one at each end of such erasure, with similar marks in column 1, and the word "erasure," or corresponding word

*For rulings as to documents of which registration is compulsory, see notes on section 17 at the end of this Part.

in the vernacular. All such notes must be attested by the initials of the Registering Officer.

50. When the copy in the Register Book has been completed, it shall be carefully compared with the original, and the Registering officer shall certify, under his signature, that it is a true copy. If the comparison of the copy with the original is made by any person other than the Registering officer, such person shall endorse below the copy the words 'Compared by me' and attach his signature to the endorsement. (Notn. No. 10043, *B. G. G.*, 1884, Pt. I, p. 1220).

Method of attesting corrections in copy of a document in the Register Books.

No erasure or alteration shall be made in the Registers, any error made at the time of copying shall be bracketed in red ink, and the correction written above in red ink, and such correction shall be attested on each side by the initials of the Registering officer. Every interlineation or addition shall be similarly noted and attested.

When any such corrections are made, the form of certificate shall be as follows :—

"(True copy.)

The words , line , page , having been superfluously written at the time of copying, have been placed in brackets" ; *or* "the words , line page, having been written by mistake at the time of copying, have been placed in brackets, and the words have been written above in red ink;" *or* " the words having been omitted by mistake from line , page , at the time of copying, have been written above in red ink.

(Signed) A. B.,
Registrar or Sub-Registrar."

Arrangement of entries in Register Books.

51. If the copy of a document occupies more than one page of the Register Book, the marginal entries shall be made once only, with the exception of the serial number, which shall be repeated on every page. The marginal entries shall, in no case, be made alongside of the copy of any document other than that to which they relate. Where, owing to the document being short, the marginal entries in the Register Book extend lower down in the columns appropriated to them than the copy of the document in the column appropriated to it, the blank space left in the last-named column shall be cancelled by cross lines in ink being drawn over it.

Treatment of maps or plans put in under Section 21.

52. On every map or plan put in under section 21, the Registering Officer shall endorse " map or plan which accompanied the document, registered No. , at page , volume of Book No. I," and every Registering Officer entering such map or plan or copy of map or plan, in his supplement to Book No. I, Part II, shall make a note in his Book No. I, below the copy of the document to which the map or plan or copy belongs as follows :—

"Map or plan, or copy of map or plan accompanying, is entered at page of volume of Supplement to Book No. I, Part II."

On return of document after registration, receipt given under Section 52 to be taken back.

53. When after the registration is complete within the meaning of Section 61, the document is returned, the signature of the recipient shall be taken in the Day-Book (Appendix L), and the receipt given under Section 52 shall be taken back and filed.

Registered and unregistered documents to be kept separate, and a list to be kept showing each.

54. Documents of which the registration is not complete, and registered documents pending delivery, shall be kept separate.

A list of documents, the registration of which is not completed, and of those which have been registered, and have remained unclaimed for more than one month from the date of completion of registration shall be hung up to public view in the office of every Registering Officer.

Notices regarding fees under Article 37 of the Fee Table to be issued in certain cases.

If a document remains unclaimed one calendar month after its registration or after registration of the same has been refused, the Registering Officer shall, on the day following the last day of such month, issue a notice to the presenter of the document, informing him that if it be not claimed within a further period of one calendar month from the date of such notice, an extra fee at the rates prescribed in Article 37 of the Fee Table will be leviable before such document can be delivered to him. Such notices shall be sent by post, post paid.

(Notn. No. 3684, *B. G. G.*, 1883, Pt. I., p. 355.)

Correction of mistake in registering a document in the wrong sub-district.

55. When a Sub-Registrar registers a document relating to immoveable property not situate within his own sub-district, but in that of another Sub-Registrar and the mistake is brought to notice, he shall direct the presenter to present it again in the proper office where it shall be registered afresh without additional charge.

Copy of every order or appeal directing a document to be registerrd to be sent to the Sub-Registrar concerned.

56. A copy of every order passed by a Registrar in appeal shall, if registration be thereby ordered, be sent to the Sub-Registrar, from whose decision the appeal was made, and shall be copied by the latter in the last column of his Book No. II.

Commissions and the taking of Evidence, &c.

Form of Commissions and manner of recording them.

57. Commissions issued under section 33 or 38 and the returns thereto shall be recorded in a separate file. Such commissions should be in the following form :—

"To

A. B.

Whereas the accompanying power-of-attorney (or document), dated and purporting to have been executed by C. D., has been presented for authentication (or registration) in this office, and whereas it is necessary that it should be ascertained whether it has been voluntarily executed by the person by whom it purports to have been executed, you are hereby directed to take the examination of upon the interrogatories hereunto attached, and to return this commission with the examination of the said to this office on or before the day of 18 .

Given under my hand and seal this day of 18 .

Seal.

(Signature of Registrar or Sub-Registrar).

Class of witnesses to be preferred.

58. In taking evidence regarding the identity of parties appearing before him, the Registering Officer should prefer witnesses of respectability or well-known persons, such as Government Officers, Vakils ordinarily practising at the station, or persons with whom he is personally acquainted.

Fees for Processes under section 36 or 75.

59. Fees are to be levied for summonses and warrants issued under either section 36 or 75 at the rates prescribed in the fee table, prepared by Government, and to be credited in the Batta Book (Appendix O).

Issue of process under section 75.

For the purposes of paragraph 4 of section 75, Registrars will themselves issue process for the attendance of witnesses. In the district of Bombay the Registrar will himself arrange for the service or execution of such processes, elsewhere they should be sent to a Mámlatdár, Mukhtyárkar, or Máhalkari for the purpose of being served or executed.

Registration of instruments prepared under section 63A of the Dekkhan Agriculturists' Acts, 1879 to 1886.

(Notn. 763, *B. G. G.*, 1887, Pt. I., p. 85.)

59A. In respect of the registration of any instrument which has been executed by an agriculturist under section 63A of the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, Nos. 17, 23, 30, 41, 42, 42A, 46, 48, 56, 57, 59, 60, 64 and 65 of these rules shall be deemed inapplicable, and the following special provisions shall apply, namely:

(1.) An endorsement in the following form shall be substituted for that prescribed by Rule 37, *viz.*:—

"Prepared at the office of the Sub-Registrar of , (*or* 'at the house of ', *as the case may be*) between the hours of 2 and 3 P.M., on the 30th July 1877.'

(2) Rule 47 shall be read as if for the 2nd and 4th items therein specified the following were, respectively, substituted, *viz.*:—

'(*2nd*) the preparation-endorsement referred to in Rule 37, as modified by Rule 59A, clause (1);'

'(*4th*) the endorsements made under Nos. 15, 15B and 16 of the Rules made under section 61 of the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, and the certificate required by section 60 of the Indian Registration Act, 1877, in the order in which they occur on the instrument.'

(3) Rule 66 shall be read as if for the first sentence thereof down to and inclusive of the word 'same' the following were substituted, *viz.*:—

'If for any reason an instrument is not completely executed and registered after the fee for the same has been paid, one-half of such fee shall be refunded to the person who paid the same.'

Deposit of Sealed Covers.

Receipt given under Rule 35 for a sealed cover to be taken back when the cover is withdrawn.

60. When application is made for withdrawal of a sealed cover under section 44, the Registrar shall take back the receipt given under Rule 35 when the cover was deposited, and file it.

Grant of Copies, &c.

Applications for copies, &c., to be in writing.

61. Every application to a Registering Officer for copies, searches, inspections, &c., shall be made in writing: every such application shall be numbered and filed by the Registering Officer, and upon it shall be endorsed the date of receipt, the date on which the requisition was satisfied, and the amount of fee received.

Registering Officers must be careful to see that the provisions of the stamp-law for the time being in force are complied with in respect of applications made under this rule and also as regards copies of documents which they may furnish to applicants.

A Sub-Registrar in charge of a Registrar's Office, to receive percentage allowance on receipts from fees for copies, &c.

62. When the Sub-Registrar at the Huzúr Station is appointed by the Registrar under section 11 to perform his duties during his absence from his office on duty, in his district, or when, although not so appointed, such Sub-Registrar is during the Registrar's absence placed in charge of the District Record-room, the fees received for

copies from the records of which he is so placed in charge shall be credited in the Sub-Registrar's accounts, and he shall be allowed his usual percentage commission on such fees.

Postal Charges.

Postal charges not to be levied for transmission of memoranda, &c.

63. No postal charges shall be levied for the transmission of memoranda or copies of documents, under sections 64, 65, 66 and 67. The fees charged cover all expenses, and the postage shall be paid by the officer levying such fees.

Copies of Documents prepared under Section 67.

In certain cases translation of document to accompany copy under section 67.

64. When under clause (*b*) of section 30 the Registrar of Bombay registers a document relating to property situated beyond the limits of the Bombay Presidency, the copy of such document, which under section 67 it is his duty to forward to every Registrar within whose district any part of the property to which such document relates is situated, shall, when the document is in a language other than English, be accompanied by an English translation, written in red ink, and certified under the signature of the said Registrar of Bombay to be a true translation.

Copies of Reasons for Refusal of Registration.

Copy of reasons under sections 71 and 76 of what to consist.

65. The copy of reasons furnished under sections 71 and 76 shall be a copy of the entries in the first four columns of Book No. II. relating to the document, of which registration has been refused.

Refund of Fees.

When registration is refused, fees are to be refunded.

66. Fees on documents of which the registration is finally refused shall be refunded to the parties entitled to the same. A Register of such refunds, and of refunds of fees surcharged, and of fines which have been remitted shall be kept by each Registering Officer in the form of Appendix V.

Returns and Accounts.

Monthly returns to be sent to Registrars and to the Inspector General.

67. Every Registrar shall submit to the Inspector General, on or before the 15th of every month, monthly returns in the forms of Appendices W. and X. These shall be prepared from similar returns, which shall be submitted to the Registrar by the Sub-Registrars on the 2nd of every month.

Dates on which accounts should be closed.

68. Sub-Registrars in the Mofussil, other than those at Sadar stations, should close their accounts on the date of each month on which the ac-

counts of the Treasuries, into which their receipts may be paid, are closed; those at Sadar stations and in Bombay should close them on the last day of the month.

[Notn. No. No. 4066, *B. G. G.*, 1890, Pt. I., p. 527, 12th June 1890.

Sub-Registrars to prefer monthly bills.

69. Every Sub-Registrar shall prepare a bill, immediately after paying in his fee-collections for the last day of each month, *i. e.*, the day on which his accounts are closed, and after obtaining the signature of the Treasury Officer thereto shall forward it with his Returns W. and X. on the 2nd of the month following to the Registrar to whom he is subordinate. The 4th column will be filled in by the officer in charge of the Treasury.

A general Bill to be prepared by each Registrar.

70. A general bill for all the Sub-Registrars in the district shall be prepared in Appendix Form Y. by the Registrar, and forwarded by him with his monthly Returns W. and X., to the Inspector General.

Return W. how to be prepared.

71. The Return W. shall comprise the period from the day after that on which the accounts are closed in one month to that on which they are closed in the month following, both days inclusive. Any fee recovered for any period not included in that to which the return relates, shall be shown in a foot-note with a short explanation.

The fees for copies or memoranda under sections 64, 65, 66 and 67 shall be entered in red ink separately from the fees for registration, but immediately below them.

Sale-proceeds of useless dead-stock articles belonging to the Department, credited to Government, shall be shown in a foot-note in the manner indicated in the form.

Treatment of fees received after closing of Treasury.

72. Fees received after the hour at which the Treasury, into which payments have to be made, may be closed, shall be kept by the Registering Officers till next day, and then paid into the Treasuries along with the receipts for that day.

In Bombay and the Sadar stations, where the Treasury accounts are closed on the last day of the month, any fees received on that day by Registering Officers, subsequent to the closing of the Treasury, shall be shown in their accounts for the following month.

Annual Returns and Report to be furnished to the Inspector General by Registrars.

73. Every Registrar shall fill up such forms of Annual Returns as may be called for by the Inspector General and shall, on or before the 30th June submit to the Inspector General a brief Annual Report containing such genaral remarks as he may deem necessary on the amount of registration-work performed by himself and his Sub-Registrars during the year, which terminated on the 31st of the previous March, distinguishing compulsory from voluntary registrations, show-

ing the nature of the documents registered, the number and result of appeals under section 72, of applications under section 73, and of suits under section 77, the amount of fees collected in his own office and those of the Sub-Registrars, drawing attention to the inconvenience, if any, attending any of these rules or the authorized table of fees, and submitting any suggestions which he may have to offer for facilitating, extending or improving the system of registration.

XII.—REMUNERATION, &c., OF SUB-REGISTRARS.

74. All Sub-Registrars, except the Sub-Registrars of the Presidency District, Karáchi and Aden, shall provide, out of the percentage of fees paid to them as remuneration, whatever writing materials they require for the work of their respective offices, excepting such blank forms and books as are supplied by Government.

Sub-Registrars to provide their own writing materials.

75. The kárkúns employed in mofussil Sub-Registry Offices shall also be paid by the Sub-Registrars out of the said percentage of fees. Subject to the approval of the Inspector General, the number of kárkúns to be employed in a Sub-Registry Office, and the amount of monthly remuneration to be paid by the Sub-Registrar to each of them, shall be determined by the Registrar of the district. In no case shall the salary of any kárkún be less than Rs. 8 per month if he be employed by a special Sub-Registrar, nor less than Rs. 6 per month, if he be employed by an *ex-officio* Sub-Registrar, whether the percentage receipts of the Sub-Registrar be above or below the abovenamed sums. On the 1st of January and on the 1st of July in each year, every Sub-Registrar shall furnish to the Registrar, to whom he is subordinate, a return showing the amount of salary paid by him to his establishment during the preceding six months. No Sub-Registrar shall employ, fine, or dismiss any kárkún save with the sanction of the Registrar of his district.

Mofussil Sub-Registrars to pay their own Kárkúns, subject to the orders of the Registrar.

76. *Ex-officio* Sub-Registrars—

(1) shall not write up, during the regular office hours of the Kacheri in which they are employed, any of the Register Books or Indexes, nor any of the Returns, nor any book except the Minute Book, the Day-Book, the Cash-Book, and the Bítta Book;

Ex-officio Sub-Registrars may not write up their records during office hours.

(2) shall not employ any of the parties to a document, nor any agent, relative or friend of any such party or other person interested in the document, to write up any of the Registration-Books, Indexes, Returns, or endorsements relating to such document, nor get any such writing done

Nor employ the parties &c. to a document to do any such writing, nor get such writing done without remuneration by any one attending Kacheri.

without remuneration by any person attending the Kacheri on any public business;

Nor employ any public servant to do any such writing during office hours.

(3) shall not employ any Government servant to write up any of the Registration-Books, Indexes, Returns, or Endorsements, during the ordinary hours of duty of such servants; and,

And shall be responsible for quality of writing and condition of records.

(4) shall be responsible for all writing for registration purposes being done legibly and distinctly and for the Books, Indexes, and Returns being kept in a neat and orderly manner under penalty of refunding the percentage of fees paid for any writing not to the satisfaction of the Registrar.

Registrar may withhold Sub-Registrars' percentage allowances.

77. Registrars may, at their discretion, withhold percentage allowance from any Sub-Registrar who may be found to be negligent in the performance of his duties.

XIII.—INSPECTION.

(Notn. No. 3921, *B.G.G.*, 1887, Pt. I., p. 509.)

Inspection by Registrars of Sub-Registrars' Offices.

78. Every Registrar shall, if possible, examine the Books, Indexes, Accounts, and other records of the Sub-Registrars subordinate to him once in every official year. He shall make a memorandum of all errors, acts of negligence, or doubtful practices which he may observe, and shall send one copy of the same to the Sub-Registrar and another to the Inspector General, with any remarks or suggestions that he may have to offer. He shall particularly direct his attention towards ascertaining whether the same person or persons have been in the habit of attending at the Sub-Registry Office an extraordinary number of times to give evidence as to the identity of executants. He shall also, under section 52, authenticate the books that he may examine by making a record in each book to the following effect:—

"Entries from p. to p. in this book.

Examined by me,

(Signed)

Registrar."

The of 189 .

Inspection by Inspectors of Sub-Registrars' Offices.

79. Every Inspector of Registration Offices shall carefully inspect the books, accounts, &c., of each Sub-Registry Office in the districts forming his charge, if possible, once in every official year, and shall, on each such occasion, make a memorandum of all errors, acts of negligence, omissions, or doubtful practices which he may observe. He shall forward one copy of such

memorandum to the Inspector General of Registration for information and another copy of the same to the Registrar of the district. The latter will thereupon issue such orders to the Sub-Registrar as he may deem requisite, but no Inspector shall issue any order direct to any Sub-Registrar. Such books of the Sub-Registry Office as may be examined by an Inspector shall be authenticated by him under section 52 of the Registration Act in the manner above prescribed for Registrars.

Inspectors to submit a diary every month and an Annual Report to the Inspector General.

80. On or before the 10th of every month each Inspector shall submit to the Inspector General a diary containing full information as to his movements during the preceding month. He shall also submit an Annual Report, in which are to be noted all deeds of a peculiar or extraordinary character which have come under his observation during his examination of the Register Books. Special mention is also to be made of the state of the Indexes in the several offices, whether they afford all necessary facilities for reference, and whether any steps are recommended for their improvement.

XIV.—BRANCH INSPECTOR GENERAL OF SIND.

In Sind reports, &c., to be made to the Branch Inspector General.

81. In Sind all reports and returns which, by any of the foregoing rules, are ordered to be made to the Inspector General shall be made to the Branch Inspector General.

XV.—EXAMINATIONS.

Annual Departmental Registration Examination.

82. A departmental examination in questions relating to the Registration Act and Rules and the General Stamp Act shall be held yearly in September in each district. (Notn No. 2705, *B. G. G.*, 1883. Pt. I., p. 1272.)

All Clerks and Kárkúns of the Registration Department in the direct employ of Government shall be required to pass such examination before being confirmed in their appointments. The Kárkúns of any Sub-Registrar other than the Sub-Registrars of the Presidency District and the Sub-Registrar of Karáchi, not being in the direct employ of Government, are exempt from the necessity of passing this examination; but any such Kárkúns, who, under the terms of Government Resolutions, Revenue Department, No. 2257 of the 12th May 1871, and No. 2724 of 13th May 1873, are eligible for the Government service, may, if they so desire, appear at the examination.

The questions for the examination will be prepared by the Inspector General and forwarded by him to the President of the Examination Committee in each district, who will return the papers to the Inspector General for his examination and decision. The names of the candidates who pass the examination will be published in the *Government Gazette*.

If a candidate who has passed the examination does not obtain an appointment in the Registration Department within one year from the date of so

passing, he shall not be deemed qualified for a permanent appointment therein until he has again passed the examination, but he may be appointed as a probationer.

(Notn. No. 705, *B. G. G.*, 1883, Pt. I., p. 272.)

Confirmation of probationary Special Sub-Registrars.

83. The appointment of every Special Sub-Registrar will for the first 12 months be probationary only; as soon as possible after that time has elapsed, or in special cases within that time, if after careful examination of his office he be reported duly qualified by the District Registrar, the Inspector General will inform Government whether in his opinion he should be confirmed in his appointment, but no such appointment will be confirmed unless the probationer has passed the annual examination prescribed by the last rule either within a year before he was appointed or whilst he has been on probation.

(Notn. No. 5396, *B. G. G.*, 1887, Pt. I. p. 717.)

If however a Registrar's clerk or kárkún has, while serving in that capacity, passed the departmental examination prescribed in Rule 82 and has continued, up to the time of his appointment as a Sub-Registrar, to be employed in the Registration Department, he shall not be liable to again pass the annual examination.

APPENDIX A.—*(See Rule 1.)*

FORM OF BOOK No. 1.

Register of Non-testamentary Documents relating to Immoveable Property.

Serial Number of Document.	Endorsement and Certificate (sections 52, 58, 59, and 60).	Copy of Document.

APPENDIX B.—*(See Rule 1.)*

FORM OF BOOK No. II.

Record of Reasons for Refusal to Register.

Serial Number of refusal and nature of Document.	Name of Presenting Party.	Name of Office in which Registration has been refused, and date of refusal.	Reasons for refusal to register.	Copy of Order of Appellate Authority or Civil Court directing Registration (sections 72 or 75 and 77).

Note.—1.—Book No. II is to be kept in this form both by Registrars and Sub-Registrars.

2.—In Sub-Registrars' Offices only the date of refusal need be entered in column 3.

3.—In Registrars' Offices when an appeal is brought under section 72, or when an application is made under section 73, the name of the office in which registration of the document has been refused and the date of such refusal should be entered in column 3, and in column 4 the Sub-Registrar's reasons for refusal should be copied *verbatim*. If the order of the Appellate Authority directs the registration of the document it is to be copied in full in column 5 both in the Registrar's Book No. II and in that of the Sub-Registrar concerned.

APPENDIX C.—*(See Rule 1.)*

FORM OF BOOK No. III.

Register of Wills and Authorities to adopt.

Number.	Reference to Book No. V.	Endorsement and Certificate (sections 52, 58 to 60, and 45).	Copy of Will or Authority to adopt.

Note.—1. Only the Registers issued to Registrars should contain the second column.

2. In Registrars' offices when a Will is in the first instance deposited as a sealed cover the 2nd column will be filled in, and the 3rd column left blank. In any other case column 3 will be filled in, and column 2 left blank.

APPENDIX D.—(*See Rule 1.*)

FORM OF BOOK No. IV.

Miscelloneous Register.

Serial Number of Document.	Endorsement and Certificate (sections 52, 58 to 60.)	Copy of Document.

APPENDIX E.—(*See Rule 1.*)

FORM OF BOOK No. V.

Register of Deposits of Wills.

Number.	Year, month, day, and hour of presentation.	Name and addition of Depositor.	Nature of Document.	Names and additions of Persons examined as to identity.	Superscription.	Inscription or seal.	Date of Application for Registration (section 45.)	Name and addition of Person making Application.	Reference to Book No. III.	Date of Return to Depositor (section 44.)	Receipt of Depositor on withdrawal.
1	2	3	4	5	6	7	8	9	10	11	12

APPENDIX F.—(*See Rule 5.*)

FORM OF INDEX No. I.

Names of executing Parties or, in case of Decrees or Orders of Civil Court, of Defendants.	Place of Residence.	Profession, Trade, Rank, or Title.	Names of Persons claiming under Document or, in case of Decrees or Orders of Civil Court, of Plaintiffs.	Place of Residence.	Profession, Trade, Rank, or Title.	Date of Registration.	No. of Book.	Volume.	Page.	Serial Number of Document.

APPENDIX G.—(*See Rule 5.*)

FORM OF INDEX No. II.

Name of Village or Town.	Táluka.	Description of Property.	Names of executing Parties or, in case of Decrees or Orders of Civil Court, of Defendants.	Names of Persons claiming under Document or, in case of Decrees or Orders of Civil Court, of Plaintiffs.	Nature of Document and value of consideration.	Date of Registration.	No. of Book.	Volume.	Page.	Serial No. of Document.

APPENDIX H.—(*See Rule 5.*)

FORM OF INDEX No. III.

Name of Testator or Donor.	Place of Residence.	Profession, Trade, Rank, or Title.	Name of Executor, Guardian, &c.	Place of Residence.	Profession, Trade, Rank, or Title.	Name of Person claiming under Will or Authority to adopt.	Place of Residence.	Profession, Trade, Rank, or Title.	Description of Property to which Document relates.	Date of Death of Testator or Donor.	Date of Registration of Will or Authority to adopt.	Volume of Book No. III.	Page.	Serial Number of Document.

APPENDIX I.—(*See Rule 5.*)

FORM OF INDEX No. IV.

Name of Executing Party or Defendant (in case of Decree or Order of Civil Court.)	Place of Residence.	Profession, Trade, Rank, or Title.	Names and Additions of Persons claiming under Document or, in case of Decrees and Orders of Civil Court, of Plaintiffs.	Nature of Document and Value of Consideration.	Date of Registration.	No. of Book.	Volume.	Page.	Serial Number of Document.

APPENDIX J.—(*See Rule 7.*)

TRANSLITERATION TABLE.

English.	Gujaráti.	Maráthi.	Kánarese.	Hindustáni.
a	અ	अ	ಅ	ا
á	આ	आ	ಆ	آ
i	ઇ	इ	ಇ	اِ
ī	ઈ	ई	ಈ	اِي ي
ŭ	ઉ	उ	ಉ	اُو
ū	ઊ	ऊ	ಊ	اُو
e	એ	ए	ಎ	اے
ai	ઐ	ऐ	ಐ	اَي
o	ઓ	ओ	ಒ	او
ou	ઔ	औ	ಓ	اَو
am	અં	अं	ಂ	اَم
ah	અઃ	अः	ಃ	آه
k	ક	क	ಕ	ك
kh	ખ	ख	ಖ	خ
g	ગ	ग	ಗ	گ
gh	ઘ	घ	ಘ	گھ
ng	ઙ	ङ	ಙ	ن
ch	ચ	च	ಚ	چ
chh	છ	छ	ಛ	چھ
j	જ	ज	ಜ	ج
jh	ઝ	झ	ಝ	ژ
ny	ઞ	ञ	ಞ	ن
ṭ	ટ	ट	ಟ	ٹ
ṭh	ઠ	ठ	ಠ	ٹھ
ḍ	ડ	ड	ಡ	ڈ
ḍh	ઢ	ढ	ಢ	ڈھ
ṇ	ણ	ण	ಣ	ن
t	ત	त	ತ	ت
th	થ	थ	ಥ	تھ
d	દ	द	ದ	د
dh	ધ	ध	ಧ	دھ
n	ન	न	ನ	ن
p	પ	प	ಪ	پ
ph	ફ	फ	ಫ	پھ
b	બ	ब	ಬ	ب
bh	ભ	भ	ಭ	بھ
m	મ	म	ಮ	م
y	ય	य	ಯ	ي
r	ર	र	ರ	ر
l	લ	ल	ಲ	ل
w	વ	व	ವ	و
sh	શ	श	ಶ	ش
ṣh	ષ	ष	ಷ	ش
s	સ	स	ಸ	س
h	હ	ह	ಹ	ح
ksh	ક્ષ	क्ष	ಕ್ಷ	كش
dn	ઽ	ऽ	ಽ	ن

APPENDIX K.—(*See Rule 17.*)

FORM OF INDEX TO BOOK NO. II.

Name of presenting Party.	Page.	Number.

APPENDIX L.—(*See Rule 19.*)

FORM OF DAY-BOOK.

Wednesday, 15th July 189 .

Number.	Description of Instrument and Value of property affected thereby—particulars regarding Fees levied.	Number of Folios.	Fees. Copying.	Fees. Registration.	Reference to Register.	Whether Registration ordered or refused, or whether Deed has been withdrawn.	Date of Registration or refusal, i.e., the date on which the Registration has been ordered or refused.	Date of return to presenting parties.	Signature of Recipient.
			Rs. a. p.	Rs. a. p.					
1	Conveyance (Rs. 1,500)	24	3 12 0	5 0 0	Book No. I., Vol. 34, Pages 137 to 141, Serial No. 255-a.	Ordered ...	15th July 189 .	23rd July 189 .	A. B.
	Fine under Section 24, under clause 1 of the Fine Table	... ...	....	7 8 0					
	1 Copy to Registrar of...	.....	3 12 0	.....					
	3 Memoranda under Section	.....	1 8 0	.....					
2	Will	12	1 14 0	4 0 0					
3	Lease (Rs. 49)	7	1 1 6	0 4 0					
			11 15 6	16 12 0					
				11 15 6					
	Total ...	.....	....	28 11 6					
	Wednesday, 15th July 189 , *after close of Treasury.*								
4	Mortgage with Possession (Rs. 1,000) ..	17	2 10 6	4 0 0	Book No. I., Vol. 35, Pages 130 to 142, Serial No. 256-a.	Ordered ...	15th July 189 .	30th July 189 .	C. D.
	3 Memoranda under Section	....	1 8 0	.....					
			4 2 6	4 0 0					
				4 2 6					
	Total ...	....	.....	8 2 6					

(Signed) *X. Y.*,
Sub-Registrar.

APPENDIX M.—(*See Rule 20.*)

FORM OF MINUTE BOOK.

Daily No.	
	Wednesday, 15th July 189 .
1	*A. B.* of *C. D.* presents for registration a document purporting to be Mortgage deed of a field executed in his favour by *E. F.*, also of *C. D.*; proceedings postponed pending issue of a summons to *E. F.*
	(Signed) *X. Y.*, Sub-Registrar.
	Thursday, 6th August 189 .
No. 1 of 15th July 189 .	Resumed proceedings in regard to document, Daily No. 1 of 15th July 189 . A person, calling himself *E. F.*, attends in obedience to a summons served upon him, and admits execution of the document. He is identified by *G. H.*, a Vakeel, practising in the Court of the Munsiff of , who is known to the undersigned, or who, in his turn, is identified by *K. L.*, who is known to the undersinged Registrar (or Sub-Registrar.) Registration ordered in Book No. I.
	(Signed) *X. Y.*, Sub-Registrar.

N.B.—In the case of consideration acknowledged after the words "admits execution of the document," add "and receipt of consideration." If any payment of money or delivery of goods is made in the presence of the Registering Officer with reference to the document that is presented for registration, a record to that effect in this book shall be made and signed by the Registering Officer, and shall also be endorsed on the document. Denial of receipt of consideration should also be noted.

APPENDIX N.—(*See Rule 21.*)

FORM OF CASH-BOOK.

Wednesday, 15th July 18 .

For what Fees, &c., were realized.	Amount. Rs.	a.	p.
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 10, fee refunded to *A. B.* on document No. , the registration of which was refused.	2	0	0
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 2-8, fee surcharged on document No. of , refunded	0	8	0
Inspection of Register Book No. I. for 1873 allowed on application No. 1 of this date	1	0	0
Search of Registers for 1870 and 1871 on application No. 2 of this date... ...	2	0	0
For personal attendance of Sub-Registrar at house of *A. B.*, to examine *A. B.* regarding special power-of-attorney executed by her	10	0	0
Attestation Fee levied in above case	2	0	0
Fine under Section 34 levied on resumption this day of proceedings, Daily No. 3 of 25th May 18	5	0	0
Copy granted of General No. 378 of 1871 on application No. 2 of 14th July 18 , 16 Folios...	2	8	0
Total of Fees for registration and copying, &c., as shown in Day-Book of this day's date, before close of Treasury	28	11	6
Total... ...	53	11	6

(Signed) *X. Y.*,
Sub-Registrar.

Received Rs. (53-11-6) fifty-three, annas eleven, and pies six only.

(Signed) *M. N.*,
Officer in charge of Treasury.

Details of above for guidance of Treasury Officer.
(*a*) Registration fees.
(*b*) Fines or penalties.
(*c*) Fees for copies granted.

Fees for registration, copying, &c., as per Day-Book of this day's date, after close of Treasury	8	2	6

Thursday, 16th July 18 .

Balance in hand from previous day	8	2	6
Total of fees for registration, copying, &c., as per Day-Book of this day's date	46	10	0
Total	54	12	6

(Signed) *X. Y.*,
Sub-Registrar.

Received Rs. (54-12-6) fifty-four, annas twelve, and pies six only.

(Singed) *M. N.*,
Officer in charge of Treasury.

* Details of above for guidance of Treasury Officer.
(*a*) Registration fees.
(*b*) Fines or penalties.
(*c*) Fees for copies granted.

* Fines under Section 24 or 34 to be shown under item (*b*) in this abstract; fees for copies granted, but not copying fee, to be shown under item (*c*). All other fees and realizations, except sale proceeds of dead-stock articles which should, in the rare instances of such being realized, be entered under a separate heading of their own, to be shown under item (*a*) as registration fees.

APPENDIX—O.—(*See Rule 23.*)

FORM OF BATTA-BOOK

Dr. *Wednesday, 15th July 189 . .* *Cr.*

Number in Day-Book of Document in connection with which Fee was received.	For what Fee was taken.	Amount.	How disposed of.	Amount.
		Rs. a. p.		
1 of 15th July 189	From *A. B.* for a summons to *C. D.*	1 0 0	Returned to *O. P.* batta received for remuneration of witness *Q. R.*, on whom summons could not be served	Rs. a. p. 0 8 0
	Ditto Ditto *E. F.* Ditto ...	1 0 0		
	From *A. B.* for batta for *C. D.* ...	1 12 0	Forwarded to Magistrate with application for summonses to be issued to—	
	Ditto Ditto for *E. F.* ...	0 10 0		
2 of 14th July ...	From *G. H.* for a summons to *J. K.*	1 0 0	*C. D.* ... ... Rs. 2 12 0 *E. F.* ... ... „ 1 10 0 *J. K.* ... ... „ 2 4 0	
	Eor batta to ditto	1 4 0		
3 of 1st July ...	Batta returned by Magistrate, summons on *Q. R.* not having been served	0 8 0		6 10 0
	Total... ...	7 2 0	Total... ...	7 2 0

(Signed) *X. Y.*,
Sub-Registrar.

(Signed) *X. Y.*,
Sub-Registrar.

Received Rs. (6-10-0) six, and annas ten only.

(signed) *M. N.*,
Magistrate.

APPENDIX P.—(*See Rule 26.*)

List of Books, Papers, &c., destroyed under the provisions of Rule 26.

No. and Date of the Paper, &c., if any.		Subject of the Paper, &c.	Date of Destruction.	REMARKS.
No.	Date.			
				I hereby certify that these papers, &c., were destroyed in the presence of the undersigned.* (*Signature*).

* Notification No. 8678, *B. G. G.*, 1887, Pt. I., p. 984.

APPENDIX Q.

List of Documents destroyed under Section 85 and Rule 27.

Date of Presentation.	Office in which presented.	Nature of Document and Value or amount of consideration.	Name of Presenter.	Executed by	In favour of	Date of Registration or refusal, as the case may be.	Date of Order of Destruction by the Inspector General.	Date of actual Destruction.	Reference to Register.

I hereby certify that these documents were destroyed in the presence of the undersigned.*

(Signature.)

* Notification No. 8678, B. *G. G.*, 1887, Pt. I., p. 984.

APPENDIX R.—(*See Rule 31.*)

* *Form of Memorandum under Sections 64, 65, 66 and 67 of Act III of 1877.*

Serial Number.	Copy of Endorsements and Certificates, Sections 52, 58 to 60.	Nature of Document	Description and Value of Property affected by the Document.	Situation of property.	Names of Executing Party.	Place of Residence.	Profession, Rank, or Title.	Names of Claiming Parties.	Place of Residence.	Profession, Rank, or Title.	Reference to Register.

Forwarded to the Sub-Registrar of under Section of the Indian Registration Act III of 1877.

Date of receipt

† { Filed at page , No. , Volume *Date*
of Supplement to Book No. I, Part I. Registrar or Sub-Registrar.

Date Sub-Registrar.

* The Value of the stamp on the original should be shown on the Memorandum as also the stamp-vendor's endorsement.

† This form of endorsement by the receiving and filing officer should be followed in the case of certificates under the Land Improvement Act, filed in Supplement to Book No. 1, Part III.

APPENDIX S.—(*See Rule 35, para. 1.*)

Form of Miscellaneous Receipt.

Date ... ...

Fee (*or* Travelling expenses) received for ... ...

Paid by ... ...

Amount received ... ...

Registrar (*or* Sub-Registrar.)

Date ... ...

Fee (*or* Travelling expenses) received for ...

Paid by ... ...

Amount received ... ...

Registrar (*or* Sub-Registrar.)

APPENDIX T.

Form of Receipt under Section 52 and Rule 35, para. 2.

Daily No.

Date of 18 .

Nature of Document.

By whom presented.

Received fees as follows :—

	Rs.	a.	p.
Registration fee			
Copying fee (Folios)			
Extra fee for registration by Registrar...			
Extra registration fee for registration at private residence			
Attendance fee for ditto			
Fee for copies or Memoranda under Sections 64, 65, 66, and 67			
Fine under Section 24			
Do. under Section 34			
Total Rs...			

Registrar (*or* Sub-Registrar.)

Daily No.

Date of 18 .

Received for registration (*or* deposit) from

Received fees as follows :—

	Rs.	a.	p.
Registration fee			
Copying fee (Folios)			
Extra fee for registration by Registrar			
Extra registration fee for registration at private residence ...			
Attendance fee for ditto			
Fee for copies or Memoranda under Sections 64, 65, 66, and 67.			
Fine under Section 24			
Do. under Section 34			
Total Rs...			

Registrar (*or* Sub-Registrar.)

APPENDIX U.—*(See Rule 42.)*

Form of Endorsement and Certificate under Sections 58 to 60.

A. B., executing party, Merchant, resident at Thána, admits execution, and acknowledges or denies receipt of consideration, as the case may be. *A. B.* is personally known to the undersigned Registrar (or Sub-Registrar.)

(Signed) *A. B.*,
(„) *X. Y.*,

Registrar or Sub-Registrar.

15th July 18 .

Or *C. D.*, Writer, resident at Thána, examined as to identity of *A. B.*, *C. D.*, is personally known to the undersigned ; or C. *D.*, in his turn, identified by *E. F.*, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *C. D.*,
(„) *E. F.*,
(„) *X. Y.*,

Registrar or Sub-Registrar.

15th July 18 .

E. F. (Agent of *G. H.*, executing party), Vakil, resident at Thána, admits execution by *G. H.*, and acknowledges or denies receipt of consideration, as the case may be. He is personally known to the undersigned Registrar (or Sub-Registrar), or as above.

(Signed) *E. F.*,
(„) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

A. B., Collector, executing party, resident at Thána, is exempt from personal appearance under Section 88 of the Indian Registration Act III of 1877. His signature and seal are identified by *C. D.*, Clerk, resident at Thána, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *C. D.*,
(„) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

Or the signature and seal of *A. B.*, Collector, are known to the undersigned Registrar (or Sub-Registrar).

(Signed) X. Y.,

Registrar or Sub-Registrar.

July 18

* Registered No. 4 at page 12, Volume 11 of Book No. I.

(Signed) *X. Y.*,

L. S.

Registrar or Sub-Registrar

16th July 18 .

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* NOTE.—The date of registration in the endorsement under Section 60 should be the date on which the document is compared with the copy in the Register Book, and the letter certified to be a true copy.

APPENDIX V.—(*See Rule 66*).

Register of Refunds (a) on account of Deeds refused for Registration, or (b) on account of Fees surcharged, or (c) on account of Fines remitted.

Date of receipt by Registering Officer of bill or order on Treasury or Sub-Treasury for payment of refund.	Date of delivery of refund bill or order to party claiming the same.	Amount of refund bill or order.	Reference to page of Day-Book in which entry regarding document appears.	Date of refusal of registration.*	Date of submission of refund bill for sanction.	Signature (in acknowledgment of receipt of refund bill or order) of party claiming the same.	Signature of Registering Officer.

NOTE I.—*This column is to be left blank in the case of refund of fee surcharged or fines remitted.

NOTE II.—In those offices in which, owing to there being no Treasury or Sub-Treasury close at hand, refunds are made through the means of a permanent advance, the headings of columns 2, 3 and 7 will be altered so as to show that the Registering Officer has paid the amount of refund in cash to the claiming party.

APPENDIX W.—(*See Rule* 27).

REGISTRATION RETURN.

DETAILED STATEMENT showing the articles of Fee Table, under which Fees shown in Columns 2, 3, 4, 5, 9, 10, 11, 12, 20, 21, 22, or 23 of this Return have been levied, and the Numbers of Fees under each Article—

NAME OF OFFICE.	BOOK No. I.		BOOK No. IV.
	Optional.	Compulsory.	

Registrar.

Registration Return of the *for the Month of*

NAME OF OFFICE.	BOOK No. I.									
	REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY.									
	OPTIONAL.									
	The value or consideration not exceeding, Rs. 100.		The value or consideration exceeding Rs. 100, but not exceeding Rs. 1,000.		The value or consideration exceeding Rs. 1,000, but not exceeding Rs. 20,000.		The value or consideration exceeding Rs. 20,000.		No consideration, rent or other value being expressed in the Deed.	
		Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.

BOOK NO. I.—*continued.*

REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY—*continued.*

OPTIONAL—*continued.*				COMPULSORY.							
Separate Deeds acknowledging receipt or payment of consideration on account of other Deeds optionally registered.		Deeds falling under Article 27 of the Fee Table.		The value or consideration not exceeding Rs. 100.		The value or consideration exceeding Rs. 100, but not exceeding Rs. 1,000.		The value or consideration exceeding Rs. 1,000, but not exceeding Rs. 20,000.		The value or consideration exceeding Rs. 20,000.		No consideration, rent or other value being expressed in the Deed.	
No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.

BOOK No. I.—*continued.*

REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY—*continued.*

COMPULSORY—*continued.*

Separate Deeds acknowledging receipt or payment of consideration on account of other Deeds compulsorily registered.		Copying Fee, besides the ordinary Registration Fee.		TOTAL OF BOOK No. 1, INCLUDING COPYING FEE.	
No.	Fee.	No. of Folios.	Fee.	No.	Fee.

BOOK No. III.*

Registration of Wills and of Authorities to Adopt.		Copying Fee, besides the ordinary Registration Fee.		TOTAL.	
No.	Fee.	No. of Folios.	Fee.	No.	Fee.

* Wills and Authorities to Adopt should be shown separately by using the letter *W* to denote Wills, and *A A* for Authorities to Adopt.

BOOK No. IV.

MISCELLANEOUS DOCUMENTS.

The value not exceeding Rs. 100.		The value exceeding Rs. 100, but not exceeding Rs. 1,000.		The value exceeding Rs. 1,000, but not exceeding Rs. 20,000.		The value exceeding Rs. 20,000.		No consideration or other value being expressed in the Deed.		Separate Deeds acknowledging receipt or payment of consideration on account of other Deeds also registered.		Deeds falling under Article 27 of the Fee Table.		Copying Fee, besides the ordinary Registration Fee.		TOTAL OF BOOK No. IV., INCLUDING COPYING FEE.	
No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No. of Folios	Fee.	No.	Fee.

BOOK No. V.

WILLS.

For deposit of Sealed Cover.		For opening Sealed Cover.		For withdrawal of Sealed Cover.		Copying Fee besides the ordinary Registration Fee.		TOTAL OF BOOK No. V., INCLUDING COPYING FEE.		Total Number of Documents presented for registration or deposit, or withdrawal.	TOTAL F
No.	Fee.	No.	Fee.	No.	Fee.	No. of Folios.	Fee.	No.	Fee.		

FINES.

Section 24.		Section 34.		TOTAL.	
No.	Fee.	No.	Fee.	No.	Fee.

POWER OF ATTORNEY ATTESTED.

Special.		General.		TOTAL.	
No.	Fee.	No.	Fee.	No.	Fee.

Copies granted.		Searches and Inspections.		Commissions (Sections 33, and 38).		Personal Attendance (Sections 31, 33, and 38).		Translations filed under Section 62.		Fees under Article 37 of the Fee Table.		Miscellaneous Receipts, *i. e.* Recovery of Fees less charged in former months, fines or percentage recovered from the Sub-Registrars, &c., &c.	TOTAL F &c., RECEIVED.
No. of Folios.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.		

EXPENDITURE.

ESTABLISHMENT.			Fixed Contingent Allowance.	Percentage to Sub-Registrars.	Printing and Stationery.	Furniture and House-rent.	Postage
Permanent.	Temporary.	TOTAL.					

EXPENDITURE—*continued.*				SURPLUS.	DEFICIT.	REMARKS.
Travelling Allowance.	Refunds.	Miscellaneous.	TOTAL.			

Deduct Deficit.....Rs.

Add Sale proceeds of Dead Stock articles sold, as per Inspector General's No. of 189 .

Registrar.

Net Surplus...Rs.

Office of

189 .

APPENDIX X.—*(See Rule 67.)*

Monthly Statement of Arrears in the District of on the 1st 189 .

Registrar and Sub-Registrars.	Document to be copied.	No. of Documents of which Registration is delayed pending inquiry.							No. of Documents of which Registration is completed remaining unclaimed in Office.	REMARKS.
		Above 1 Month.	Above 2 Months.	Above 3 Months.	Above 4 Months.	Above 5 Months.	Above 6 Months.	Total.		

Statement of Inspections in the District of during the Month of 189 .

Name of Sub-District.	Date of Inspection.	By whom inspected.		REMARKS.
		Registrar.	Assistant or District Deputy Collector.	

Statement of Peon's Fees collected for Summons and for serving Warrants of Seizure of persons in the District of during the Month of 189 .

Name of Office.	SUMMONS.		WARRANTS.		TOTAL.		REMARKS.
	No.	Fee.	No.	Fee.	No.	Fee.	

Registry Office,

Registrar.

APPENDIX Y.—(*See Rule 69.*)

Form of PERCENTAGE BILL.

Her Majesty's Government of Bombay Dr.

To AMOUNT OF PERCENTAGE at 20 per cent. due to on the Fees collected and paid into the Treasury of of to the credit of Government, during the Month of 18 .

1	2	3		4				5			6
		Collections.		How and when the Collections were credited to Government in the Treasury Officer's Cash Account.				Percentage payable.			
Sub-District.	Name of the Sub-Registrar.	Fees.	Penalties.	Total amount paid into the Treasury.	Month.	Heading under which credited.	Item in which it is included.	Twenty per cent. on fees only.	Deduct fines.	Net amount of percentage payable.	REMARKS.

Date

Registrar or Sub-Registrar.

CERTIFIED that the amounts entered in column 4 have been credited to Government as above.

Date

Officer in charge of the Treasury.

APPENDIX Z.

REVENUE DEPARTMENT.

Bombay Castle, 19th June 1878.

The follwing form of security bond, prescribed under Government Resolution No. 4022, dated 15th July 1873, for use in the Registration Department, is published for general information in lieu of the form (U) published at page 854 of the *Government Gazette* of 3rd August 1871:—

Know all men by these presents that we A., B., and C. are held and firmly bound to the Secretary of State for India in Council, his successors and assigns, in the sum of Rs. to be paid to the said Secretary of State for India in Council, his successors or assigns, for which payment to be well and truly made, we bind ourselves and each of us, our and each of our Heirs, Executors and Administrators, and every of them jointly and severally by these presents, sealed with our seals, dated this day of in the Christian year, 18 .

2. Whereas the abovenamed A. is appointed to fill the office of a Sub-Registrar of Assurances in the Bombay Presidency, including Sind, and as the holder of such office he is a Public Accountant within the meaning of Act XII of 1850. And whereas in pursuance of the Rules made by the Governor in Council of Bombay in that behalf, the said A. has procured two approved persons to be his sureties for the due discharge of the trusts of his

office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

3. And whereas the said B. and C. have agreed to become sureties to the said Secretary of State for India in Council, his successors and assigns, for the due discharge by the said A. of the trusts of his office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

4. Now the condition of the above-written bond or obligation is such, that if the said A., B., and C., or any of them, their, or any of their Heirs, Executors or Administrators, shall pay, or cause to be paid, unto the said Secretary of State for India in Council, his successors or assigns, the amount of any loss or defalcation in the accounts of A., or of any loss or damage sustained by Government owing to the misconduct or neglect of the said A. with regard to the documents in his charge within 24 hours after the amount of any such loss or defalcation shall have been demanded by the person or persons at the head of the office to which the said A. belongs, such demand to be in writing, and to be left at the office or place of residence of A., B., and C., respectively, then the above-written bond or obligation shall be void; otherwise to remain in full force and virtue, and the person or persons at the head of the office, to which the said A. belongs, may proceed against him, and his sureties, the said B. and C., for the said loss or defalcation in the accounts of A., or arising out of his misconduct or neglect as if the amount thereof were an arrear of land revenue due by them or any of them to Government. In witness whereof the said A., B., and C. hereunto set their hands and seals, this day of 18 .

The following Table of Fees payable under the Indian Registration Act No. III of 1877 is, with the sanction of the Governor General of India in Council, published for general information in supersession of the Table published at pages 353 to 355 of the *Bombay Government Gazette* of 17th May 1883 :— (Notn. 182, *B. G. G.*, 1888, Pt. I., pp. 129 to 22.)

I.—For the registration of any Acknowledgment (not being of the nature described in Article II), Agreement, Award, Bond, Bill of Exchange, Bill of Sale, Composition-Deed, Contract, Covenant, Grant, Lease, Articles of Partnership, Release Settlement, Declaration of Trust, Revocation of a Trust or Settlement, or of any Instrument of Assignment, Conveyance, Gift, Mortgage, Partition, Sale or Transfer, or of any certified copy of a Decree or Order of Court, or of any Document not hereinafter expressly provided for, in which the amount or value of the consideration therefor or of the property, if any, to which it relates, is capable of being expressed:

(*a*) *If the amount or value of the consideration therefor, or of the property to which such instrument or document relates, is wholly expressed therein.*

						Rs.	a.	p.
1.	When the amount or value does not exceed Rs. 50 ...				...	0	4	0
2.	Do.	do.	exceeds Rs. 50	but does not exceed Rs.	100...	0	8	0
3.	Do.	do.	... 100	do.	200...	1	0	0
4.	Do.	do.	... 200	do.	400...	2	0	0
5.	Do.	do.	... 400	do.	600...	3	0	0
6.	Do.	do.	... 600	do.	1,000...	4	0	0
7.	Do.	do.	... 1,000	do.	1,500...	5	0	0
8.	Do.	do.	... 1,500	do.	2,000...	6	0	0
9.	Do.	do.	... 2,000	do.	3,000...	8	0	0
10.	Do.	do.	... 3,000	do.	4,000...	10	0	0
11.	Do.	do.	... 4,000	do.	5,000...	12	0	0
12.	Do.	do.	... 5,000	do.	7,500...	14	0	0
13.	Do.	do.	... 7,500	do.	10,000...	16	0	0
14.	Do.	do.	... 10,000	do.	15,000...	18	0	0
15.	Do.	do.	... 15,000	do.	20,000...	20	0	0
16.	For every Rs. 1,000, or part thereof, in excess of Rs. 20,000					1	0	0

(*b*) *If such amount or value is only partly expressed.*

17.	The same *ad-valorem* fee as above on the amount or value which is expressed, and an additional fee of	2	0	0

(*c*) *If such amount or value is not expressed at all.*

18.	A fixed fee of	10	0	0

*II.—For the registration of a document which acknowledges merely the payment of the consideration for some other document which is also registered.	...	...	...	The same fee as for the principal document, if the same does not exceed Rs. 2; otherwise, Rs. 2.
III.—For the registration of a Power of Attorney, a Writing of Divorcement, a Certificate of Heirship, Guardianship, Administratorship, or Executorship, or of any document which does not fall within any other article of this Table.	...	...	2 0 0	

Wills and Authorities to Adopt.

IV.—For registration of a Will when presented open, or of an authority to adopt... ... ...Rs.	2	0	0	Besides the expense of copying the superscription or contents according to the rate laid down in Article IX.
V.—For deposit of a sealed cover containing a Will „	2	0	0	
VI.—For opening such cover... ... ... „	2	0	0	
VII.—For withdrawal of such cover...			2 0 0	

Searches and Inspections.

†VIII.—For searching for entry by Registering Officer, or for allowing applicants to inspect Books or Indexes, for every year of which the Register or Index is searched or inspected.	...	...	1 0 0	

(Copying Fees, Grant of Copies, &c.)

IX.—Copying fee, besides the ordinary registration fee, for each folio of 100 words				
X.—For making or granting copies of entries and documents for the benefit of any person, or to be forwarded to any other office under Sections 65, 66 and 67, or for making or granting copies of reasons for refusal by a Registrar under Section 76, for each folio of 100 words	...	.....	0 2 6	
XI.—For granting copy of map:— Provided that the arrangements for, and the cost of, making such copy must be made and borne by the person who applies for it.	...	...	0 8 0	

(Extra or additional Fees.)

‡XII.—For registration of any documents by a Registrar ...Rs.	4	0	0	In addition to the ordinary fee.

Note.—This Article is not applicable to the Registration District of Deesa.

(Notn. No. 8704, *B. G. G.*, 1889, Pt. I., p. 3.)

*NOTE TO ARTICLE II.—This Article applies specially to documents which acknowledge the receipt of the consideration expressed in a previous registered document but not paid at the time of the execution of such document, where an *ad valorem* fee, according to the amount of such consideration, has, under Article I, been levied in respect of such previous registered document.

It also applies to re-conveyances executed on the extinction of mortgage liens and to documents acknowledging the receipt of instalments on account of mortgages, subject to the following conditions:—

(*a*) In respect of documents ackowledging the extinction of a mortgage lien in consideration of one payment less in amount than that originally due upon the mortgage, the registration fee shall be calculated according to the *ad valorem* scale in Article I, subject to a maximum of Rs. 2.

(*b*) In respect of documents acknowledging the receipt of payments by instalment on account of a mortgage, the registration fee in each case shall be calculated according to the *ad valorem* scale in Article I, subject to a maximum of Rs. 2.

† NOTE TO ARTICLE VIII.—If, in an application to the Registering Officer for the copy of an entry, the names of the claiming and executing parties, the nature of the document, and date of registration be shown, the fee for such will not be levied.

Government officers requiring to inspect or search the registers or take copies of entries, for *bonâ fide* public purposes, are exempted from the payment of fees.

‡ NOTE TO ARTICLE XII.—When the registration of any document properly registerable by a Sub-Registrar is performed by a Registrar, owing to the former being a party to the transaction represented by such document, the extra fee will not be charged.

XIII.—Registration by the Registrar of Bombay under Section 30, Clause B— (*a*) If the document relates to property situated in the Bombay Presidency, but beyond the limits of the Bombay Registration District... Rs. 8 0 0 (*b*) If the document relates to property situated beyond the limits of the Bombay Presidency. Rs. 16 0 0	...	In addtion to the ordinary fee.
XIV.—For the issue of a Commission under Section 33 or 38—		Rs. a. p
(*a*) If the person is physically unable to attend the Office, or is confined in Jail...		5 0 0
(*b*) Otherwise		10 0 0
XV.—For filing translation (Section 62)		2 0 0
*XVI.—For attendance at private residence, or Jail, under Section 33 for the purpose of attesting a power-of-attorney, or for attendance under Section 31 for acceptance for registration or deposit, or for attendance under Section 38 for the examination of any person.	If the person is physically unable to attend the office, or is confined in Jail ...Rs. 5 0 0 Otherwise „ 10 0 0 And an extra attestation or registration fee equal to the ordinary attestation or registration fee.	In addition to the ordinary fee and travelling allowance at the rates permissible under the Civil Travelling Allowance Code.
†XVII.—For the safe custody and return of any document presented for registration and not applied for under para. 2 of Section 61 of the Act within two months from the date of registration, namely, for every day in the third month from date of registration until such document is so applied for		0 1 0
Do. in the fourth month		0 2 0
Provided, however, that the maximum fee payable under this Article for each document so returned shall be		5 0 0
(*Memoranda, Attestation, Summons and Warrants' Fees.*)		
XVIII.—For every copy of the Memorandum to be sent under Sections 64, 65 and 66		0 8 0
XIX.—For the attestation of a Power of Attorney, if Special...		1 0 0
Do. do. if General		2 0 0
XX.—Peon's fee for every summons		1 0 0
XXI.—For every warrant for seizure of person		2 0 0

Note:—(*a*) In the case of leases, the amount or value of the consideration on which the *ad-valorem* registration fee is to be assessed shall be as follows:—

If the lease is granted:	The registration fee will be assessed on;
(1) in consideration of the payment of a fine or premium only;	the amount of such fine or premium paid or payable;
(2) in consideration of the payment of a fine or premium in addition to rent reserved;	the average annual rent reserved, in addition to the amount of fine or premium;
(3) in consideration of the payment of an annual rent without the payment of a fine or premium;	the average annual rent reserved;
(4) for a period less than a year	the total sum payable under the lease;

* NOTE TO ARTICLE XVI.—When an attendance takes place under both Sections 31 and 38 at the same time and place, if the registration of but one document is concerned, only one attendance fee and one extra registration fee will be levied. If a Registering Officer, where the registration of one document is concerned, attends on the presenter on one occasion, and the executant or another necessary witness on another occasion, two attendance fees and two extra registration fees will be levied. If a Registering Officer attends at a private residence or Jail, and one person presents several documents, or one person admits the execution of several documents at one and the same time and place, only one attendance fee will be levied, but an extra registration fee (or, when the admission of execution takes place with a view to the attestation of a power of attorney, an extra attestation fee) will be levied in the case of each document. When several different persons at one and the same time and place present for registration or admit execution of several different documents, the Registering Officer will levy an attendance fee for each distinct transaction, the extra registration fee (or, in the case of powers of attorney attested, the extra attestation fee) being leviable in the case of each document.

† NOTE TO ARTICLE XVII.—Inspector General of Registration is empowered to remit the fee altogether at his discretion.

(5)	for an indefinite period...	the average annual rent payable for the first ten years.

Note.—(*b*) If a Patta or lease be given to a cultivator and the Kabuláyat or counterpart of such Patta or lease be registered in the same office and on the same day as the Patta or lease, the registration-fee chargeable in respect of the two documents shall not be greater than the fee which would have been charged on the lease alone.

Note.—(*c*) In the case of annuity-bonds, service-bonds, and agreements for the hire of moveable property, the amount or value of the consideration, on which the *ad-valorem* registration-fee is to be assessed, shall be as follows:—

If the annuity-bond, or service-bond or agreement is granted :	The registration-fee will be assessed on :
(1) for a definite period exceeding one year ;	the average annual amount to be paid during the period ;
(2) for an indefinite period	the average annual amount to be paid during the first ten years.
If the service-bond or agreement is granted :	The registration fee will be assessed on :
(3) for a period less than a year... ...	the total amount payable under the service-bond or agreement.

Note.—(*d*) If in any of the above cases the rent, annuity, remuneration or hire is payable partly in money and partly in kind, and the money-value of the portion payable in kind is not expressed, the registration-fee will be charged at twice the amount of the *ad-valorem* fee chargeable in respect of the amount payable in money. And if the rent, annuity, or remuneration is payable entirely in kind and the money-value thereof is not expressed, a fixed registration-fee of Rs. 2 will be charged.

RULINGS ON VARIOUS SECTIONS OF THE ACT.

Section 3—*Lease.*—" An undertaking to cultivate or occupy " means an *accepted* undertaking giving the lessee a right or interest in the thing let : I. L. R. 3 B. 21.

Section 17—*Value of right created, &c.*—The consideration mentioned in a deed of sale by the parties thereto must be regarded as showing the value of the interest conveyed for the purposes of registration : 11 B. H. C. R. 149.

Assignment of Mortgage.

A deed of assignment of mortgage in consideration of Rs. 5 paid in cash, and the withdrawal of a suit brought on the mortgage being stamped by the parties with a stamp of Rs. 108 was held compulsorily registrable under section 17, VIII of 1871 : I. L. R. 8 B. 610.

Value of right created by Mortgage.

The value of the right, title and interest created by a mortgage is estimated by the amount of the principal money thereby secured. The words " or in future " refer to estates in remainder or in reversion in immoveable property or estates otherwise deferred in enjoyment, not to interest which may or may not be payable in future on money lent : I. L. R. 2 B. 353.

Court's Certificate of Sale requires registration if for more than Rs. 100.

A certificate under the Civil Procedure Code of the sale of immoveable property of the value of more than one hundred rupees must be registered : 7 B. H. C. R. A. C. J. 136 ; 10 B. H. C. R. A. C. G 435 ; I. L. R. 4 B. 155.

Memo. of Revenue Sale does not require registration.

But a memorandum declaring the successful bidder at a revenue sale, is not an instrument creating or declaring an interest in immoveable property. What operates to create the right of occupancy is the revenue sale and consequent entry of the name in the Collector's book : 11 B. H. C. R. 218.

Separate Certificates each under Rs. 100 *do not require registration.*

A certificate under the Civil Procedure Code of the sale of four lots, each under Rs. 100 should be regarded as four separate certificates, each of which did not require registration : I. L. R. 8 B. 377.

Recital of Partition.

A document reciting that there had been a partition of immoveable property but not itself the instrument of partition, was held not to require registration. The word "declare" in section 17 is to be taken in the same sense as the word "create, assign, &c.," *viz.*, as implying a definite change of legal relation to the property by an expression of will embodied in the document referred to: I. L. R. 5 B. 232.

Lease.

An agreement for a lease needs registration if the parties intend to create a present demise: I. L. R. 10 B. 101.

Lease for one year certain with option to Landlord to renew.

A lease under which the tenant could claim possession of the land for one year, but agreed to pay rent so long as the landlord might leave the land with him, held not to require registration: I. L. R. 8 B. 493.

Bargain Paper.

A bargain paper for the sale of immoveable property for over Rs. 100 contemplating execution of a future conveyance is not compulsorily registrable: 12 B. H. C. R. 175; I. L. R. 7 B. 310.

Effect of unregistered Bargain Paper.

But such document could not operate as a conveyance but only as giving a right *in personam*: I. L. R. 5 B. 143.

Presentation at private residence.

Section 31.—Presentation for registration at the residence of the executing party is, if special cause is shown, valid. The registering officer is the judge of the sufficiency of the special cause, and if the procedure is in good faith, it is valid under section 87 even if irregular: I. L. R. 6 B. 96.

Section 23.—Time for presentation for registration.—The Act fixes no time within which registration must be *completed*. If an instrument has been once presented within the time fixed by the Act, but delay subsequently occurs, as where the registration has been declared invalid, or where it is insufficiently stamped when presented, the document may be again submitted for registration although the periods fixed in the Act have expired: 15. B. L. R. 228; 24. W. R. 75; L. R. 1. A. 210; I. L. R. 11. Calc. 750.

Powers of Registrar General and duties of Registering Officer.

Section 69.—Section 80 of Act XX for 1886 (corresponding with section 69 of Act III of 1877) in no way empowers the Registrar General to pass any rule directing by what particular description of evidence a person producing a deed to be registered shall prove his right to have it registered, or to frame a rule different from the ordinary law of evidence as to what fact shall be proved by oral or what by documentary evidence. When all the executants admit execution, the registering officer has nothing to do with the recitals of a deed or with its possible operation as regards third parties, *e. g.*, a minor whose rights are reserved in the deed: 16 W. R. 180.

Section 24.—Finality of order.—When an application for registration of a sale deed had been presented after the expiry of the period prescribed by law for registration and had been dealt with under section 24, and the Registrar had directed that the document should be registered on payment of the prescribed fine, and such fine had been paid, held that it was not competent for the successor in office of the Registrar dealing with the document under section 74 to go behind the order of his predecessor: I. L. R. 6 All. 460.

OPINIONS ON POINTS ARISING IN CONNECTION WITH THE ACT.

Tolls are not Immoveable Property within the meaning of the Act.

Memo. by the L. R:—"The definition of immoveable property given in section 3 of the present Registration Act (III of 1877) must alone be looked to in determining, for the purposes of that Act, what is and what is not immoveable property.

"2. 'Ferries' are expressly included within the definition. A ferry is an exclusive right to carry persons and their goods across a river and to take payment for the service rendered. 'Tolls,' as they exist in this Presidency, are simply taxes on traffic on roads and bridges. There is no substantial similarity between ferries and tolls, and as 'tolls' are not specially named in the above definition, the fact that ferries are named therein affords no argument that tolls must be meant to be included also.

"3. Tolls can only be held to fall within the definition if they are 'benefits to arise out of land.' This I do not think they can reasonably be said to be; they are simply taxes imposed under the authority of a legislative enactment, on traffic, and there is no more reason, in my opinion, for classing them as immoveable property for the purposes of the Registration Act than for including ábkári and opium taxes in the same category." (G. R. No. 6268, 4th August 1884, R. D.)

Notifications under Section 5 altering limits cannot operate retrospectively.

Memo. by the L. R.:—The third paragraph of section 5 of the Registration Act (III of) 1877, very clearly provides that territorial changes shall take effect, *after the date of the* notification on a day to be mentioned therein. In the face of this enactment, it is not possible for Government, by notification, to sanction or give validity to such changes retrospectively. (G. R. 5028, 14th July 1886, R. D.)

Section 33.—Power-of-Attorney executed in a Native State.

Memo. by the L. R.:—"Section 33, clause (*e*) of Act III of 1877, does not require a power-of-attorney, executed by a principal at the time of execution residing in a Native State, to be executed before a British Court, Judge or Magistrate, but before *any* Court, Judge or Magistrate. A power-of-attorney executed before and authenticated by a Native Court, Judge or Magistrate of a Native State should, therefore, in my opinion, be accepted by the Registering Officer." (G. R. No. 4172, 23rd May 1885, R. D.)

Execution of two Documents each under Rs. 100 *instead of one for over Rs.* 100 *is not an evasion of Duties.*

Memo. by the Acting L. R.:—"The Collector of Kaira raises the question whether the execution of two documents each creating an interest under Rs. 100 in immoveable property, in place of one document for the total amount is not a contravention of section 27 of the Stamp Act rendering the documents inadmissible in evidence.

"2. It is very possible that the object of executing two documents instead of one was to avoid the expense, as well as the publicity, of registration.

"3. But section 27 requires only such facts and circumstances as affect the chargeability of an instrument with *duty* to be set forth.

'Duty' is the amount chargeable under Schedule 1 of the Stamp Act, and does not include registration fees which are levied not as a source of revenue but for services performed and benefits received.

"4. The provisions of sections 49 and 50 of Act III of 1877 declare the consequences of non-registration.

"5. Each of these documents creates an interest under Rs. 100 in value. Neither of them is inadmissible in evidence to prove either of such charges. But neither of them would avail against a registered mortgage, and their separate operation is quite different from what the effect of one mortgage for their combined amount would be. A mortgage for the combined amount would be indivisible, whereas each of these mortgages may be separately redeemed.

"6. As they do not profess to operate as *one* document for the combined amount would operate, there is nothing to prevent their admissibility in evidence though their *operation* is subject to the provisions of the Registration Act giving preference to any registered charges in existence relating to the same property." (G. R. No. 7000, dated 20th October 1888, R. D.)

PART XII.

RULES UNDER THE INDIAN OPIUM ACT, I OF 1878.

In exercise of the powers conferred by Sections 5 and 13 of the Opium Act, 1878, and in supersession of all previous rules under the same sections, the Governor in Council is pleased, with the previous sanction of the Governor General in Council, to make the following rules for regulating the traffic in opium in the Bombay Presidency (namely).

Preliminary.

Short title.

1. These rules may be cited as the Bombay Opium Rules. (Notn. No. 4472, *B. G. G.*, 1885, pp. 704 to 715.)

2. In these rules, unless there be something repugnant in the subject or context,—

(1) "opium" has the meaning defined in the Act;

(2) "Commissioner" means the Commissioner of Customs, Salt, Opium and A'bkári.

(3) "Collector" means any revenue officer in independent charge of a district, and, within the limits of the town of Bombay, the Collector of Customs: it also includes any Assistant Collector, Deputy Collector, or Assistant Collector of Customs duly authorized by such Collector to perform all or any of the duties imposed on a Collector by these rules;

(4) "farmer" means a person who has obtained from the Collector a farm under Rule 43;

(5) "licensed vendor" means a person who has obtained a license for retail vend under Rule 39 or 45;

(6) "presidency of Bombay" includes Sind;

(7) "town of Bombay" means the area comprised in the limits of the jurisdiction of the Presidency Magistrate;

(8) "warehouse" means the Bombay Opium Warehouse appointed by the Governor in Council in Government Notification No. 2205, dated 16th March 1885, (published in the *Bombay Government Gazette* for 19th idem, page 341,) under section 7, clause (*c*), of the Act, for the storage and deposit of opium legally imported into and intended for exportation by sea from the presidency of Bombay.

Cultivation and Manufacture.

3. The cultivation of the poppy and, except as provided in Rules 22, 39, 43 and 44, the manufacture of opium for sale or export are prohibited within the presidency of Bombay.

Possession.

4. Except as provided in Rules 5 and 6, or by a special order of the Commissioner under Rule 11,—

(i) no person shall have in his possession any opium other than—

(*a*) opium purchased from Government, or from a farmer or licensed vendor, or under Rule 36, or

(*b*) a preparation or admixture made for his own domestic use from opium so purchased;

(ii) no person, not being a farmer or licensed vendor, shall have in his possession more than five sers of poppy-heads or ten tolás of any description of opium not being poppy-heads.

5. Rule 4 does not apply to—

(i) opium in transit covered by a permit under Rule 7;

(ii) opium lawfully imported—

(*a*) during transit to its destination;

(*b*) when warehoused under the provisions of Rule 21;

(G. N. No. 229, *B. G. G.*, 1886, Pt. I., p. 32.)

(iii) opium imported into Ahmedabad under Rule 13 A and possessed, subject to such conditions as the Commissioner may prescribe, by an authorized agent of His Highness the Mahárával of Dungarpur pending disposal.

(6) The Collector may grant:

(*a*) to any medical practitioner residing within his district, a license in the form marked A, hereto annexed, for the possession of opium for medical purposes only;

(*b*) to any person, a special permit authorizing him, for a specified period, to have in his possession for private consumption only a specified quantity of opium in excess of ten tolás.

Transport.

7. The transport from one place to another within the presidency of Bombay of any quantity of opium exceeding ten tolás in weight is prohibited, except under cover of a permit in Form B., hereto annexed, or in such other form as the Commissioner from time to time prescribes, granted—

(*a*) in the case of opium to be transported from one place to another within the town of Bombay, or from any place within to any place without the town of Bombay, by the Collector;

(*b*) in the case of opium to be transported from any place in the presidency outside the town of Bombay to the town of Bombay, or to any other place in the presidency, by the Collector of the place from which it is to be despatched:

Provided that—

(1) in the case of opium imported into the town of Bombay, the permit to cover transport from the railway-station to the warehouse may be endorsed on the pass referred to in Rule 16;

(2) in the case of opium to be exported by sea, the permit to cover transport from the warehouse to the place of shipment may be endorsed on the shipping bill;

(3) in the case of opium removed from a Government depôt to a retail shop, a permit in the Form C., hereto annexed, or in such other form as the Commissioner from time to time prescribes, may be granted by the officer in charge of such depôt.

8. Except in the case of transport from one place to another within the town of Bombay or within any district, no such permit shall be granted unless the person applying for it can produce a written permission so to apply, signed—

(*a*) if transport to a place within the town of Bombay be applied for,—by the Collector of Customs;

(*b*) if transport to any district be applied for,—by the Collector of such district.

A copy of the permit granted shall be sent—

in case (*a*), to the Collector of Customs;

in case (*b*), to the Collector of the district to which the opium is to be transported.

9. No package containing opium shall be opened during transport.

10. The permit and the packages shall, on arrival, be presented for examination to the Collector.

If, after examination, the Collector concludes that the packages have not been opened or tampered with in transit, if their number is complete, and if they be found to be of the full weight specified in the pass (less such allowance for dryage, if any, as the Local Government from time to time prescribes), the packages may be dealt with by the owner as the law or these rules allow, the permit being retained by the examining officer. Otherwise the packages shal be detained and dealt with as the law or the orders of any duly authorised authority may direct.

Import.

11. No opium shall be imported into the presidency of Bombay by sea except in whole or half chests for re-exportation as provided by Rule 29:

Provided, however, that at the port of Bombay only, opium may be imported otherwise than in whole or half chests for re-exportation, subject in all cases to payment of the full duty imposed by the Sea Customs Tariff for the time being in force and to any special orders passed by the Commissioner as to subsequent possession and disposal of the opium imported.

12. No opium shall be imported into the presidency of Bombay by land, unless it be:

(*a*) booked through by railway for re-exportation to other parts of British India, or to native states;

(*b*) for exportation by sea from the port of Bombay;

(*c*) for retail sale by licensed vendors, in any district in which the direct importation of

opium for such sale is sanctioned by the Local Government, and subject to any conditions which the Local Government may from time to time prescribe: *

Provided that any opium imported for either of the purposes mentioned in clause (*b*) and clause (*c*) may after it reaches its destination in the presidency of Bombay, and with the permission in writing of the Collector, be dealt with in any other way permitted by the law for the time being in force. But, subject to any conditions which the Local Government may prescribe in this behalf, permission shall not be granted by the Collector until the difference between the duty on the opium in question, calculated at the rates in force at the date of the application, on opium intended for exportation and on opium intended for retail sale, respectively, shall have been recovered or refunded, as the case may be.

13. No opium shall be imported into the presidency of Bombay by land except by one of the following routes, that is to say—

(*a*) from any place on the frontier of the Kadi division in the territory of His Highness the Gáikwár, which the Local Government may from time to time appoint, direct to the town of Ahmedabad;

(*b*) by railway, from Khándwa, or *viâ* Pálanpur and Ahmedabad.

(G. N. No. 229, *B. G. G.*, 1886, Pt. I., p. 32.)

13A. Notwithstanding anything contained in Rule 13, Opium, the property of His Highness the Mahárával of Dungarpur may be imported into Ahmedabad, under an escort furnished by His Highness the Mahárával, by the following route, *viz.*, from Kherwáda, by Vichwáda, Samera, Samlaji, Tintoi, Bákrol, Lembhoi, Dhákrol, Modhuka, Hárso], Ujdia, Dehgam, Národa to Ahmedabad, and subject to examination as to number, weight and tampering in transit, at any of the above places which the Local Government may appoint in this behalf.

14. Opium booked through for re-exportation to other parts of British India or Native States shall be detained and examined as to number, weight and tampering in transit at any railway-station in the presidency which the Local Government may appoint in this behalf.

15. Opium imported by land for exportation by sea shall be brought direct to the town of Bombay, and there deposited, in the manner provided in Rule 21, until such time as it may be disposed of.

16. No opium shall be imported by land except after payment of the duty, if any,† imposed by the Governor General in Council under section 6 of the Act, and under a pass in Form D., hereto annexed, or in such other form as the Commissioner from time

* *Vide* Appendix A.
† *Vide* Appendix D.

to time prescribes, granted by the Government Opium Agent at Indore, Chitor, Ujjein, Rutlam, Dhár, Ajmir, Ahmedabad, Mundisar, or Bhopál, or by some other officer duly authorized in that behalf by the Governor General in Council or the Local Government, respectively.

16*A*.—Notwithstanding anything contained in Rule 16, opium imported from the Kadi Division of His Highness the Gáikwár's territory under clause (*a*), Rule 13, and opium imported under Rule 13*A* from the territories of His Highness the Mahárával of Dongarpur, shall be allowed to be brought to the scales at Ahmedabad on provisional passes to be granted by the Opium Agent, Ahmedabad, in such form as may be prescribed by the Commissioner from time to time without previous payment of duty. But no such opium shall be allowed to be passed from the scales except on payment of duty, if any, and under a pass as provided in Rule 16. (Notn. No. 6914, *B. G. G.*, 1889, Pt. I., p. 804.)

17. The duty on opium intended for exportation by sea shall be payable as follows :—

at the Ahmedabad Opium Agency, in cash or by hundi payable at sight at the Bank of Bombay ;

at the Ajmir Agency, in cash or by hundi drawn on some trustworthy firm in Bombay, and payable at sight ;

at all agencies subordinate to the Opium Agent, Indore, by hundis drawn on some trustworthy firm in Bombay and payable at six days' sight.

18. Intimation of the passes granted and hundis received daily shall be sent by the officer granting and receiving the same direct to the Collector of Customs and to the Bank of Bombay (in the case of hundis thereon) ; and, when the opium concerned is intended for retail sale by licensed vendors, or for immediate re-exportation from the Presidency of Bombay to another part of British India or to a Native State, to the Collector or Political Officer of the locality to which the opium is to be sent. The passes shall be delivered to the importers to cover their consignments.

19. Save as permitted in Rules 11 and 20, no opium shall be imported into the Presidency of Bombay—

(*a*) except in whole chests containing 140 lbs. of opium, or half-chests containing 70 lbs., *plus* such allowance, if any, for dryage as the Local Government may from time to time prescribe ;

(*b*) unless each such chest or half-chest be marked with the consecutive number of the pass, the total number of chests forming the consignment and the distinctive brand of the office from which the pass was issued.

20. Notwithstanding anything contained in Rule 19, opium booked through by railway for re-exportation to the Presidency of Madras may be imported in strong wicker baskets subject to the following conditions :—

(*a*) each basket shall be stoutly and securely sewn over with leather, and shall contain 10 lbs. of opium;

(*b*) seven of such baskets shall be packed in a strong gunny or cloth bag, which shall be securely sewn;

(*c*) each bag shall have a label sewn on it, showing the number of its covering pass and its weight at the scales, and a distinguishing number or mark.

21. Opium imported into the Presidency for exportation by sea shall be conveyed to Bombay and shall, on arrival, be presented to the Collector, together with the pass covering the same. The consignment shall be verified in the manner specified in Rule 10, and conveyed direct to and deposited in the warehouse:

Provided that any such opium may be detained by the Collector at the risk of the consignee, until payment of the duty, when it is paid by hundi, has been certified by the Bank of Bombay, or until any other condition prescribed by this rule has been fulfilled.

22. Opium imported into the town of Bombay may, for export purposes, be manufactured into chandul, but such chandul shall continue liable to all the restrictions on transport which under these rules apply to opium. The manufacture shall be conducted under licenses to be issued by the Collector on such conditions as the Commissioner may from time to time prescribe.

Export.

23. Opium imported under Rule 12 for exportation by sea may be so exported from the port of Bombay only.

24. Opium so exported by sea shall be packed in whole or half chests containing the weights specified in Rule 19.

25. When opium is to be removed for exportation by sea, the exporter shall enter in the shipping bill, under which the opium is to be exported, the marks and numbers of packages and the number of packages of each mark to be removed from the warehouse. The shipping bill so prepared shall be checked with the warehouse register and removals noted therein.

26. Opium converted into chandul under Rule 22 may be exported under the same conditions as are provided in Rules 23 to 25 for ordinary opium, at the rate of 140 lbs. of chandul to 70 lbs. of opium.

27. When any person desires to export opium from the Presidency of Bombay into any foreign State, or into any other part of British India, he shall obtain a pass for each consignment, in such form as the Commissioner may from time to time prescribe, from the Collector of the district from which such opium is to be exported, or, in the case of export from the town of Bombay, from the Collector of Customs.

The pass shall specify—

(1) the name of the person in charge of the consignment,

(2) the name of the consignee,

(3) the number of packages and the weight and contents of each, and

(4) the destination of the consignment.

But no such pass shall be granted unless the person applying for it produces a written permission so to apply, signed by the Collector of the district, or the Political Officer accredited to the foreign State into which such opium is to be imported.

28. The Collector may thereupon grant a pass for the export of such opium.

Each package shall be sealed in the presence of the officer granting the pass and with his official seal.

Transhipment and Re-export.

29. Notwithstanding anything hereinbefore contained to the contrary, opium not the produce of India may be imported by sea into the port of Bombay or Karáchi, and opium, whether the produce of India or not, may be imported by sea into the port of Aden: provided in each case that the opium so imported be manifested for transhipment or for re-exportation in the same bottom.

Opium so imported may be re-exported by sea from the said ports.

All such opium imported into and re-exported from the said ports in the same bottom shall be liable to a duty at the following rates on each chest not exceeding 140¼ lbs. avoirdupois net weight:—

when the consignment* does not exceed 150 chests, at Rs. 5 per chest.

from 151 to 300 chests, at Rs. 4 per chest.

from 301 to 600 chests, at ,, 3 ,,

601 chests and upwards, at ,, 2 ,,

Provided that opium on which a transhipment or re-export fee has been levied at one of the said ports shall be exempt from the payment of a re-export fee at any other of the said ports.

30. Small parcels of opium imported under Rule 11, on which full customs-duty has been paid, may be exported by sea or land under the special orders of the Commissioner.

General Rules as to Opium transported, imported and exported.

31. No railway company shall receive or convey opium not covered and accompanied by a permit or pass of an officer competent under these rules to grant the same; or shall convey opium otherwise than direct, and in the custody of its own officers, to the station at which, according to the route prescribed in such permit or pass, it should leave the railway.

* The term "Consignment" obviously means the quantity consigned by one person or firm to another person or firm (G. R. No. 8415 of 15th November 1883, R. D.).

32. The bulk of a consignment of opium in transport or in transit in the course of importation or exportation shall not be broken; and any revenue officer not inferior in grade to a Mahálkari, or any inspector or sub-inspector in the Ábkári or Opium Department, or any police officer not inferior in grade to a head constable, may at any time examine such a consignment.

If, after such examination, the officer concludes that the packages have not been opened or tampered with in such transport or transit, if their number corresponds with the number specified in the permit or pass, and if they be of the full weight specified in such permit or pass (less the allowance, if any, granted for dryage), the consignment shall be allowed to proceed. Otherwise the consignment shall be detained and disposed of according to law.

33. Opium, the property of a farmer licensed by His Highness the Gáikwár for the retail sale of opium in His Highness's territories, and intended for the supply of the said farmer's retail shops, may be imported into and transported through or exported from British territory when taken direct from one or other of the depôts and sub-depôts mentioned in the margin under cover of permits issued and signed by a Náib-Subha of a division or of a táluka of His Highness's territories to the retail shop at which it is to be sold. Such permit shall be in Form C, appended to these rules.

Depôts:—
Navsári.
Baroda.
Kadi.
Sub-Depôts:—
Viara.
Velácha.
Petlád.
Dehgám.
Pátan.
Kherálu.
Attarsumba.

(Notn. No. 7592, *B. G. G.*, 1889, Pt. I., p. 858.)

(Notn. No. 4426, *B. G. G.*, 1891, Pt. I., p. 538, 2nd July 1891.)

33*A*. The conditions subject to which the transport through British territory of opium which has been seized as liable to confiscation in any part of the territories of His Highness the Gáikwár of Baroda, but which has not been ordered to be confiscated, shall be permitted, are as follows:

(*a*) that the opium shall be transported by the most direct route from the place of seizure to the place at which its liability to confiscation is to be decided;

(*b*) that it shall be covered by a pass which shall contain the following particulars:

(i) the route by which, the time during which, and the places from and to which transport is to be effected;

(ii) the quantity of the opium to which the pass refers;

(*c*) that every such pass shall be—

(1) in the Form F hereto appended,

(2) signed by the Náib Subha of the Division,

(3) kept during transport in the possession of the person in charge of the opium,

(4) produced on demand made by any British officer of the Departments of Land Revenue, Police, Opium and Ábkári;

(*d*) that no quantity shall be so transported in excess of that mentioned in any pass granted or produced in respect thereof or by any route other than that mentioned in such pass;

(*e*) that intimation of the route by which any such opium is to be transported shall be given to the Police patel of the first village in British territory through which the opium may have to pass not less than twenty-four hours before the transport through such village is commenced.

Sale.

34. Opium is said to be sold "retail" when a quantity less than half a chest of 140 lbs. is sold in a single transaction. It is said to be sold "wholesale" when half such a chest or any larger quantity is so sold.

35. No person shall sell any opium to any person not legally authorized to possess the same.

36. Opium deposited in the warehouse under Rule 21 may be sold wholesale in the town of Bombay pending its disposal, subject to the provisions of these and of the Bombay Opium Warehouse Rules as to removal from the warehouse, and provided that only whole chests or half-chests shall be so sold.

36*A*. Opium imported into Ahmedabad under Rule 13*A* may be sold wholesale to Native Chiefs and British farmers or licensed vendors in the city of Ahmedabad pending its disposal, subject to the provisions of these rules as to transport or export, as the case may be, and provided that only whole chests or half-chests shall be so sold. (Notn. No. 229, *B.G.G.*, 1886, Pt. I., p. 32.)

37. No person shall retail opium without a license: Provided that any medical practitioner to whom a license has been granted under Rule 6 may sell opium in quantities not exceeding in any one transaction ten tolás as medicine or in medical preparations.

38. No retail vendor shall sell more than ten tolás of the inspissated juice of the poppy, or of any preparation or admixture thereof, or of any intoxicating drug prepared from the poppy, or more than five sers of poppy-heads, except to a licensed vendor or farmer or to a medical practitioner or other person holding a special permit granted by the Collector under Rule 6, or under a special order from the Commissioner or a Collector.

39. Licenses for the retail of opium or for the manufacture and retail of all or any intoxicating drugs prepared from the poppy may be granted for the town of Bombay by the Collector of Customs and for other parts of the Presidency by the Collector of the district. Such licenses shall be in the Form E., hereto annexed, or in such other form as the Commissioner from time to time prescribes.

40. Whenever a license is granted for the retail of opium, the officer who grants it shall demand

such payments and shall impose in the license such conditions on the licensee as may from time to time be prescribed by the Commissioner.

41. *Cancelled.*

(Notn. No. 9061, *B. G. G.*, 1885, Pt. I., p. 1283.)

42. Licenses for retail shall be granted for one year only, unless the Commissioner shall otherwise specially direct.

43. With the general or special sanction of the Commissioner, the Collector may let in farm the right to retail opium, or to manufacture and retail all or any intoxicating drugs prepared from the poppy, in any local area under his control, for a term not exceeding five years. The Commissioner may prescribe rules:

(*a*) for the invitation and acceptance of tenders for such farms.

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of such leases.

Any breach of such engagement shall render the lease liable to annulment by the authority by whom the farm was sanctioned.

44. When any such farm is given, the farmer may make his own arrangements for the appointment of subordinate vendors, and for the manufacture of intoxicating drugs, within the limits of his farm and subject to the conditions of his lease: provided that no opium except that supplied from a Government depôt and opium lawfully imported under clause (*c*), Rule 12, and opium otherwise lawfully obtained, shall be retailed or used in the manufacture of such drugs.

45. Licenses for the retail of opium, or of intoxicating drugs prepared from the poppy, by persons appointed by the farmer to retail on his behalf, shall be granted by the Collector in such form and on such conditions, consistent with the conditions of the farm, as the Commissioner from time to time prescribes.

46. With the sanction of the Commissioner, the Collector may cancel any lease granted under Rule 43; or may, within the period of the lease, impose any new reservation or restriction on the farmer.

If any such lease be cancelled for any cause other than a breach of the conditions thereof, or if any reservation or restriction with respect to the grant of licenses be imposed during the lease, the Commissioner shall award such compensation as he thinks reasonable to the farmer for any damage sustained by him by reason of such cancellation, reservation, or restriction.

47. If any licensed vendor or farmer shall have in his possession, on the expiry of his license or farm, any opium which he is unable to dispose of, to the satisfaction of the Collector, by private sale to other licensed vendors or farmers, he shall

surrender the same to the Collector; and the incoming licensed vendor or farmer, or, if the expired license or farm is not renewed, any licensed vendor or farmer within the district, when required by the Collector, shall be bound to purchase the opium aforesaid to the extent of two months' supply at such price and in such quantities as the Collector shall adjudge: provided that the price of opium thus adjudged shall in no case exceed the rate at which it can be procured from the Government; provided also that, if such opium be in the opinion of the Collector unfit for use, the Collector shall cause it to be destroyed.

48. Central and subsidiary depôts of opium for issue to licensed retailers and farmers and for other Government purposes shall be established at Bombay and such other places as the Local Government may from time to time direct.

49. The opium required for these depôts shall be imported from Málwa or Bengal, or otherwise procured as the Local Government may direct, and shall be stored in the first instance at the central depôts, whence it will be supplied on indents to the subsidiary depôts as required.

*50. Opium shall be issued from the Goverment depôts to licensed vendors at a price to be fixed and notified from time to time by the Local Government.

Import, &c., on behalf of the Government.

51. Nothing contained in the foregoing rules shall be deemed to affect the possession, transport, import, export or sale of opium by or on behalf of the Government.

Permission to import, export, transport and sell Opium.

52. Subject to the prohibitions, conditions and regulations imposed and prescribed by the foregoing rules, the manufacture, possession, import, export, transport and sale of opium are permitted.

Disposal of things confiscated.

53. Opium confiscated under the Act shall be examined by the Collector, and, if declared by him to be fit for use, shall be sent to the nearest depôt. If declared to be unfit for use, it shall be immediately destroyed.

54. If the opium so sent to a depôt be of quality sufficiently good for retail purposes, it shall be added to the stock at the depôt. But if such opium be of inferior quality, it may be issued to retail dealers at a special rate proportioned to its quality, but shall be subject in other respects to the same conditions as other opium.

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*Opium is issued from all Government depôts in the Presidency of Bombay including Sind at the fixed rate of Rs. 10 per lb. of 40 tolás each. (Notn. No. 3023, *B. G. G.*, 1883, p. 296, and Notn. No. 4772, *B. G. G.*, 1885, p. 735.)

55. All property, other than opium, which is confiscated under the Act, shall be sold under the orders of the Magistrate or other officer by whom the confiscation was adjudged.

Rewards to be paid to Officers and Informers.

*56. Any Magistrate convicting an offender under section 9, or any Magistrate or other authorized officer ordering the confiscation of opum under section 12 of the Act, may grant, in such proportions as he thinks fit, to any person or persons who have contributed to the seizure of the opium, or the conviction of the offender, a reward not exceeding the value of the opium and other articles confiscated in the case *plus* the amount of any fine imposed; or may place such aggregate amount to be awarded at the disposal of the head of the department, any officer or officers of which may have contributed to the seizure of the opium or the conviction of the offender, to be distributed by such head of the department in such proportion as he thinks fit among persons whom he may consider to be entitled to reward in connection with such seizure or conviction.

(Notn. No. 7007, *B. G. G.*, 1888, Pt. I., p. 840.)

1. Every order for reward shall state exactly the sum of money awarded as a reward from—
   (*a*) the value of the opium and other articles confiscated in the case, and
   (*b*) the amount of fine imposed.
2. For the purpose of determining the amount of reward under head (*a*) above, the value of the opium shall invariably be calculated at the rate of Rs. 6 per lb. (unless the officer passing the order considers the opium to be decidedly valueless and records an opinion to that effect) and the value of other confiscated articles shall be appraised by him at his discretion.
3. Immediately after an order for a reward is passed, a warrant shall be issued on the Treasury for the prompt disbursement of the amount of reward adjudged under the head (*a*), Rule I, and for the payment of the amount adjudged under the head (*b*) *after* the recovery of the fine shall have been certified by the Magistrate concerned, a copy of the warrant being at the same time given to the intended recipient.
4. The sufficiency of the amount adjudged as a reward in each case should be judged (*a*) by the importance of the seizure, and (*b*) by the dexterity displayed, and the trouble and risk undergone, by the informers, captors and others concerned, acting in good faith.

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*Government regret to notice that in comparatively few cases have the Magistrates availed themselves of the power conferred upon them to grant rewards in cases of opium smuggling. In the interests of the public revenue it is desirable that such rewards should always be granted when fairly earned. (G. R. No. 273, dated 26th January 1882, R. D.)

5. If the fine is not paid within 24 hours, or only paid in part, the convicting Magistrate may, within a limit of Rs. 100, order payment of its full amount or of the unrealised balance, as the case may be, from the Treasury. (Notn. No. 8664, *B.G.G.*, 1890, p. 1227, 11th Dec. 1890.)

6. If an officer who passes an order for a reward considers the maximum amount of reward which he is competent to grant or the amount actually available for reward to be insufficient, or if the District Magistrate is of opinion that the reward granted in any case by a subordinate Court or officer is insufficient, the District Magistrate may, on the application of the officer concerned in the former case, and of his own accord in the latter case, apply for the sanction of the Commissioner to supplement the reward by a further reward under Rule 57 of the Opium Rules of such amount as the District Magistrate may deem fit to recommend, submitting at the same time a clear statement of the case, and of the grounds for his recommendation. The Commissioner may sanction, modify or reject the District Magistrate's recommendation as he may think fit in each case.

57. In any case in which, in the opinion of the Commissioner, any person has performed any service of special merit in respect of the prevention or detection of opium-smuggling or of any offence against the Act, the Commissioner may grant to such person a reward not exceeding in amount five hundred rupees.

The Commissioner, or, with the sanction of the Commissioner, a Collector or the Collector of Salt-revenue, may incur at his discretion expenditure not exceeding five hundred rupees in each case for the employment of informers or for any other purpose connected with the prevention or detection of opium-smuggling or of any offence against the Act.

The Commissioner shall, from time to time, report to the Government the circumstances under which any reward may have been granted or expenditure may have been incurred under this rule.

Control.

58. All Collectors shall, as regards any matter arising in the administration of these rules, be subject to the general control of the Commissioner.

59. The decision of the Collector as to the value of opium which has been seized shall be final.

FORMS.

A.—SPECIAL LICENSE TO MEDICAL PRACTITIONER.

(See Rule 6.)

Special license granted to *A. B.*, following the profession of at in the of for the possession of opium, on the condition that such opium shall be procured from a Government depôt, or a licensed vendor, and shall be used *bonâ fide* as medicine or in medical preparations or prescriptions.

Collector, (or as the case may be).

Dated *189* .

B.—PERMIT FOR TRANSPORT OF OPIUM.

(See Rule 7.)

No. *of*

Pass from *(here state locality and district)* to *(here state locality and district)*, by *(here give route and mode of conveyance)* in charge of *(here give name)* opium to the amount of *(here state weight)* in *(here state number and description of packages)*.

This Pass is to remain in force from *(specify date or hour)* to and to be delivered on arrival of the opium at its destination to *(here enter name or official designation)*.

Collector, (or as the case may be).

Dated *189* .

C.—PERMIT FOR CONVEYANCE OF OPIUM FROM GOVERNMENT DEPÔT TO SHOP FOR RETAIL SALE.

(See Rule 7.)

No. *of*

Pass from the Government Opium Depôt at to the Shop of *(here enter name)*, at *(here enter locality and shop)*, Sers Tolás of Opium in charge of *(here enter name)*, between the hours of M. and M. on the *(here enter date)* 189 .

Dated at (Bombay), *189* .

Officer in charge of Depôt.

D.—IMPORT PASS.

(See Rule 16.)

(Front.)

No. of 18 .

Importer
Consignee
In charge
Rupees
Chests
Half-chests
Rupees
Net weight
Allowance for leaf and dust
Total net weight of a chest

Route

Registered

Indore Opium Agent's Office, 18 .

Seal.

OPIUM.

WHEREAS having paid to the British Government the sum of Rs. as a consideration for the privilege of importing from (Málwa, or as the case may be,) to Bombay chests of opium containing pounds of Málwa opium at the rate of hundred rupees per 140¼ (one hundred and forty and a quarter) pounds weight; and the said having agreed to pay all customs and duties thereon to the Native States and Chiefs through whose territories the opium will have to pass; is hereby permitted to convey by the route described in the margin from (Málwa, or as the case may be,) to Bombay, for exportation thence by sea, (or as the case may be) the above quantity in such packages as shall hereupon be endorsed, free of any further duties whatever.

This pass will be valid until the 18 , and no longer, and shall, on the opium being warehoused, be retained and cancelled by the Collector of Customs.

By order of his Excellency the Honourable the Governor in Council,

Opium Agent.

Paid on the 18 .

Pass from Railway Station to Warehouse by in charge of
Opium to the amount and in the packages above stated
This pass is to remain in force from to

Opium Department, Bombay, 18 .

Assistant Collector of Customs
in charge Opium Department.

PASSPORT.

MEMORANDUM of the outturn of half chests of opium taken from chests brought to the scales under pass No.

	No.	Outturn of each half-chest.	Outturn of each whole chest.
	1	2	3
Contents of chests, net weight			
Average per one chest			
Allowed to export chests at 140¼ lbs. per chest...			
Average contents of chests brought to the scales			
Deficiency made good in No.			

Cleared in full as above.

Railway Station, Bombay, 18 .

Opium Inspector.

Deposited in compartment No. of the Government Opium Warehouse on 18 .

Warehouse-keeper.

Entered in Register.

Assistant Collector of Customs,
in charge Opium Department.

(*Reverse.*)

DETAILS OF REMOVALS PRIOR TO EXPORT BY SEA.

	Out of	From	To	No. of Chests.	No. and date of Transport Permit.	Pass No. of 18 .

PACKAGES OF OPIUM IMPORTED FROM MA'LWA UNDER PASS No. . .

Marks and Numbers of Packages.		Gross Weight, *lbs.*	Marks and Numbers of Packages.		Gross Weight, *lbs.*	Marks and Numbers of Packages.		Gross Weight, *lbs.*
1	2	3	4	5	6	7	8	9

E.

(See Rule 39.)

License for Retail Sale of Opium.

District

Number of License in the Register

Name of Retailer

Locality of Shops

Be it known that
resident at in the town of
is hereby authorized to sell opium by retail at the shops above mentioned from the
day of to the day of
(both inclusive) upon the following conditions :—

1. That he will sell by retail at the shops aforesaid not less than
pounds of duty-paid opium in the aggregate during the period aforesaid. If he sells less than that quantity, he will pay to Government in the manner and on the dates hereinafter specified penalty at the rate of Rs. 5 per pound on the quantity of opium required to make up the said minimum.

2. That he will purchase from the Collector confiscated opium and opium surrendered to the Collector by the retiring licensed vendor or farmer of the district, in such quantities not exceeding two months' supply, and at such price not exceeding the rate at which opium can be procured from a Government depôt, as the Collector shall adjudge.

3. That he will sell no opium but such as may have been previously approved and passed by the Collector or by some other officer authorized by the Collector to approve and pass the same, and no opium but such as he may have—

(*a*) purchased from a Government depôt, or

(*b*) purchased from a wholesale dealer in Bombay and transported for retail sale in accordance with the provisions of the Opium Act and the Rules framed thereunder, or

(*c*) lawfully imported for retail sale in accordance with the same Act and Rules, or

(*d*) purchased from the Collector under the provisions of Clause 2 of this license.

That he will not receive or have in his possession any opium obtained in any other manner.

4. That he will bring all opium purchased by him from a wholesale dealer, or lawfully imported by him, under the last preceding clause, direct to the Huzúr Treasury to be there examined by the Collector or other officer nominated by the Collector to examine and pass opium for retail sale; that he will remove and dispose of forthwith in some lawful manner other than for retail sale at his shops any portion of the opium tendered for examination which the Collector or other officer aforesaid may reject as being unsuited for retail sale in the locality concerned; and that he will lodge such opium as may be passed by the Collector or other officer aforesaid, as well as all opium purchased from a Government depôt, or from the Collector under Clause 2 of this license, at such place, in such manner and under such custody, and will remove and transport opium from such place of deposit, at such times and in such manner as the Collector or other officer aforesaid may from time to time direct.

5. That he will keep in stock at the place appointed by the Collector under Clause 4 above, at all times between 1st August 189 and the 1st July 189 inclusive, a quantity of opium passed for retail sale by the Collector or other officer aforesaid, or of opium purchased from a Government depôt or from the Collector under Clause 2, amounting in the aggregate to at least* lbs. weight.

6. That he will keep in a book, bound and paged, each page of which shall bear the seal of the Collector, plain and correct accounts written up to date daily of opium lodged into, removed from, and in store at, the place of deposit mentioned in Clause 4, and of opium daily received, sold and in stock at each of his retail shops, as well as the price realised by sale, together with a list showing the names and addresses of all persons to

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* One-tenth of the minimum number of pounds guaranteed for a whole year.

whom opium may be sold in quantities exceeding five tolás at one time, and will render to the Collector on or before the 5th of each month a statement showing the number of pounds of opium lodged into, removed from, and in store at, the place of deposit mentioned in Clause 4, and the number of pounds of opium received, sold and in store at each of his shops, during the preceding month, and will furnish forthwith on demand by the Collector such other accounts, returns and information respecting his dealings and arrangements under this license as the Collector may require; and that the keeping or rendering of incorrect accounts, statements or information will constitute a breach of the conditions of this license.

7. That if the aggregate of the quantities of opium sold by him by retail at his shops as shown in the monthly statements rendered in accordance with the last preceeding clause fall short, at any time during the term of this license, of a quantity equal to* of the minimum number of pounds specified in Clause 1 multiplied by the number of completed months elapsed from the date of the commencement of this license, he will pay to the Collector, within seven days after the end of the month up to which any such deficiency may have accrued, penalty at the rate specified in Clause 1 on every pound of such deficiency: provided that the amount of penalty so paid will be remitted afterwards to the extent by which the deficiency may be made good by larger sales than* of the number of pounds specified in Clause 1, in any subsequent month, or months, during the term of this license.

8. That the Collector shall have a lien on all opium held in stock by the licensee at the place of deposit mentioned in Clause 4 for the recovery of the penalty payable by the licensee under Clauses 1 and 7,† (of the contribution for establishment recoverable under Clause 21A.) and of any fine levied on him under Clause 25.

9. That the licensee will, immediately after the expiry or recall of this license, surrender to the Collector all opium remaining unsold on his hands on the date of the expiry or recall of this license as he may have been unable to dispose of in lawful manner, and will receive from the Collector such price, including duty, as the Collector shall adjudge for so much of the opium so surrendered as may not be liable to confiscation and as may be declared by the Collector to be of good quality and fit for retail sale; but he will not be entitled to receive any payment whatever for any portion of the opium so surrendered which may be liable to confiscation or which may be declared by the Collector to be unfit for retail sale.

10. That he will not sublet any of his opium shops without permission of the Collector, or employ for the retail sale of opium any person for whose employment in that behalf he may not have previously received written sanction and a separate license signed by the Collector authorizing such person to sell opium on behalf of the licensee.

11. That he will cause each ball of opium intended for sale to be threaded and stamped with the Collector's or Mámlatdár's official seal, at his own expense and in such manner as the Collector may prescribe; that in retailing opium, only the quantity required by each successive customer shall, as far as possible, be cut off from a sealed ball; that he shall not have in his possession at each of his shops more than one broken ball of opium at a time for sale to customers.

12. That he will retail opium only in the shops above mentioned, and that he will open and maintain new shops and close existing shops as may be required by the Collector from time to time during the currency of this license.

13. That he will keep and use for selling opium by retail and other purposes of this license such weights as the Collector may direct.

14. That, except to a medical practitioner or other person holding a special license from the Collector, he will not sell more than ten tolás weight of opium to any person at one time.

15. That he will not adulterate or admix any foreign substance or material whatever with the opium sold by him.

‡16. That he will not receive any wearing apparel or other goods in barter for opium; that he, his servants, agents and his sub-tenants will not sell opium at prices below the rates notified from time to time for the issue of opium from the nearest Government depôt, or exceeding such rates by more than one anna for a tola, unless specially authorized by the Collector in writing to sell opium at a higher rate.

17. That he will not open his shop or make sales therein before sunrise; that he will not keep it open or make sales therein after 9 o'clock P.M.; and that he will not harbour any person therein during the night.

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* One-twelfth, if the license is for one year; one-twenty-fourth, if the license is for two years; one-thirty-sixth, if the license is for three years; and so on.

† The bracketted words should be retained in licenses in which Clause 21A. is allowed to stand. In licenses in which Clause 21A. is omitted, the bracketted words of Clause 8 should be scratched out.

‡ In licenses for the districts of Ahmedabad, Kaira, Broach, Surat and the Panch Mahâls, the following should be substituted for Clause 16:—

"16. That he will not receive any wearing apparel or other goods in barter for opium; that he, his servants, agents and sub-tenants will sell opium at a uniform rate, being one anna per tola in excess of the Government issue rate for the time being in force in the district of

18. That he will not permit persons of notoriously bad character to resort to his shop; that he will prevent gaming and disorderly conduct therein, and that he will give information to the nearest Magistrate or Police Officer of any suspected persons who may resort to his shops.

19. That he will have constantly fixed up at the entrance of his shop a signboard bearing the following inscription in legible characters in the vernacular language:—

(Name of Vendor.)

"Licensed to retail Opium". "Price of Opium per tola, annas ."

20. That he will produce forthwith for inspection, on demand of any Revenue, Police, Excise, or Customs Officer above the rank of Jamádár, the accounts of any of his retail shops, or of the place of deposit mentioned in Clause 4 of this license as well as the whole quantity of opium in his possession, and that he will not prevent any Revenue, Police, Excise, or Customs Officer of whatever grade from entering any of his shops at any hour of the day or night.

21. That the "pound" mentioned in this license will be a pound equal in weight to 40 tolas, a tola being reckoned as equal to 180 grains.

*21A. That the licensee shall pay into the Collector's treasury monthly the sum of Rs. as contribution towards the cost of the Government establishment employed for the prevention of opium smuggling in the district. The first payment shall be made not later than the 31st August 189 , and subsequent payments not later than the last working day of each successive month during the term of this license.

22. That he has deposited with the Collector the sum of Rs. † in cash or Government Promissory Notes as security for the due performance by him of the conditions prescribed in this license, and that the said amount or such portion of it as may not have been appropriated by the Collector in liquidation of Government demands against him will be returned to him after the expiry of this license and after all demands against the licensee shall have been fully satisfied.

23. That his license may be recalled by the Collector—

(*a*) for default of punctual payment of the penalty mentioned in Clauses 1 and 7; or

(*b*) for default in or violation of any of the conditions specified in this license; or

(*c*) if the holder thereof be convicted of a breach of the peace or of any other offence during the currency of this license; or

(*d*) if he infringes any of the conditions imposed on him by the Opium Act, 1878, or by the rules in force thereunder.

24. That any loss caused to Government in consequence of the recall of this license for any of the aforesaid causes shall be recovered from him from the cash deposited by him with the Collector, or by attachment and sale of the stocks of opium held by him, or in such other lawful manner as the Collector shall direct. He shall not be entitled to any sum that may be realized over and above the sum payable by him by putting the license to sale in consequence of his default, nor shall he be entitled to any compensation or refund of any sums paid by him. Should the Collector desire to cancel this license before the expiry of the period for which it has been granted for any causes other than those specified in the preceding clauses, the Collector shall give him three months' previous notice and absolve him from all liabilities under this license for the unexpired term of the license, or if notice be not given, shall make such further compensation in default of notice as the Commissioner of Customs, Salt, Opium and Abkari may direct.

25. That the Collector shall have power at any time to impose a fine not exceeding Rs. 1,000 on the licensee, instead of recalling this license, for infringement by the licensee, or by any of his servants, agents, or sub-tenants, of any of the conditions of this license, and to recover the amount of the fine so imposed from the cash deposited by the licensee, or by attachment and sale of the opium lodged under Clause 4, or in such other lawful manner as the Collector may think fit. Nothing contained in this clause or in Clauses 23 and 24 shall however affect the liability of the licensee to criminal prosecution under the Opium Act.

26. That this license does not cover the manufacture and sale by the licensee of chandul, madat or any other preparation of poppy juice, other than opium. That he shall not have directly or indirectly any interest or share in any of the licenses issued by the Collector for the manufacture and sale of chandul, madat or any other preparations of poppy juice, other than opium, in the district of

Granted this the day of 189 .

Seal of the Collector.

Collector.

* This clause should be retained only in licenses in which its retention is specially directed by the Commissioner of Opium.

† Eight annas for every pound of the minimum guaranteed yearly vend.

Counterpart agreement to be executed by the Licensee.

Impressed stamp value 8 annas.

I,
the above-named Licensee, hereby agree to all the conditions hereinbefore written.

Signed in our presence, this the Licensee.

day of 189 .

Witnesses.

F.

(See Rule 33A.)

Pass within days from this date, opium weighing lbs. , tolas , grains , seized at the village of , in the táluka or mahál of , in the division of , in the territories of His Highness the Gáikwár, through the British villages named in the margin, to the village of in the táluka or mahál of in the said division in the custody of for production before the undersigned.

(Notn. No. 4426, *B. G.*, 1891, Pt. I., p. 538, 2nd July 1891.)

Náib Subha.

as provided in the Opium Act and the Bombay Opium Rules.

9. No warehoused opium shall be removed from the warehouse until application in writing has been made to the Collector and a permit for such removal has been obtained from him.

This rule shall not apply to the removal of opium from one compartment of the warehouse to another.

10. Before removal of warehoused opium for exportation by sea, the exporter's shipping bill, which shall be in the from of schedule A, or to the like effect, and shall be prepared in the manner provided in No. 25 of the Bombay Opium Rules, shall be presented to the warehouse-keeper, together with the Collector's permit authorizing such removal.

11. As the opium is passed out of the warehouse, the warehouse-keeper, or some other officer authorised by him in this behalf, shall compare the marks and numbers and other particulars on the chests or half-chests with those entered on the shipping bill, and shall permit the removal of the opium only on finding the particulars to correspond.

12. When all the opium covered by a shipping bill has been passed out of the warehouse, the warehouse-keeper or other officer aforesaid shall note on the shipping bill the fact of the removal of the opium and the date thereof.

13. The warehouse-keeper shall then note in the shipping bill the hours between which the opium shall be transported from the warehouse to the place of shipment, and return it to the exporter.

14. Before removal of any warehoused opium, under the proviso to No. 12 of the Bombay Opium Rules, for consumption within the Presidency of Bombay or for exportation under No. 27 of the said rules into any foreign State or into any part of British India outside of the Presidency of Bombay, the pass required by No. 7 or No. 27 of the said rules, as the case may be, shall be presented to the warehouse-keeper, together with the Collector's permit authorizing such removal.

15. Previous to permitting removal of any opium under Rule 14, the warehouse-keeper shall check by weighment the contents of each chest or half-chest, and shall compare the weight with that given in the pass, and in the case of opium which is to be exported under No. 27 of the Bombay Opium Rules, shall seal each package as required by No. 28 of those rules.

16. On the removal of any such opium from the warehouse the warehouse-keeper shall note on the pass the fact of the removal and the date thereof, returning the pass to the person who presented it.

17. Before any warehoused opium is removed, whether under Rules 10—13 or 14—16, the warehouse-keeper, or other officer authorized by him in this behalf, shall mark each chest or half-chest with the Government stamp provided for this purpose.

18. Unless the Collector by a special order or otherwise directs, no opium shall be taken into, or passed out of the warehouse except in whole or half-chests and in the manner prescribed in the foregoing rules.

19. Every operation connected with the deposit and removal of opium in or from the warehouse, the bringing of the same to the proper place for examination and weighment, and putting thereof into and out of the scales, and the opening, sorting, lotting, marking and numbering of packages of opium, in accordance with or for the purposes of these rules, shall be performed by, or at the expense of, the owner of the opium.

20. The warehouse-keeper, or any person duly authorized by the Collector, may at any time enter any compartment or part of the warehouse, and may weigh or otherwise take an account of any opium that may be there.

21. All assays, tests, examinations and samplings shall be performed within the warehouse.

22. Assaying, testing and other operations in which the use of fire is necessary shall be carried on only in the part of the warehouse premises set apart for that purpose and known as the 'testing-rooms.'

23. The balance of opium, if any, remaining after assay or test shall be removed from the testing-rooms and again deposited in the portion of the warehouse set apart for its storage.

24. The use of fires and naked lights and smoking within the warehouse are absolutely prohibited except in the testing-rooms.

25. The use of covered lights and lanterns may be permitted by the warehouse-keeper whenever it is shown to his satisfaction that it is necessary to allow the packing and sorting of opium to be proceeded with in the warehouse after sunset. The use of petroleum or other inflammable or dangerous oils for the purpose of lighting is strictly prohibited.

26. The warehouse shall be closed on Sundays and on New Year's Day, Good Friday, the Empress' Birthday, Christmas-day and all other days on which the closing of public offices is ordered by Government. The Collector, however, may, on application, permit the warehouse to be opened on these days on payment of such fees as the Collector, with the sanction of the Commissioner, may from time to time fix.

27. The ordinary working hours in the warehouse shall be from 10 A.M. to 5 P.M. But when the owner of any opium to be deposited in the warehouse, or of any opium already in the warehouse, makes—

(*a*) a verbal request that the warehouse be kept open at any other time between sunrise and sunset, or

(*b*) a written application, giving sufficient reasons for the request, that the warehouse be kept open after sunset up to an hour not later than 10 P.M.,

the warehouse-keeper shall open or allow the warehouse to remain open as desired.

28. No opium, or any other article, shall be brought into or removed from the warehouse except between the hours of sunrise and sunset: provided that opium unavoidably detained in transit to the warehouse and brought to the warehouse after sun-

set may be received in safe custody pending verification in the manner specified in Rule 4.

29. The warehouse shall be opened and closed only in the presence of the warehouse-keeper, who shall be responsible that all doors and windows giving access to the warehouse are properly closed and secured at the end of each day, and at the time of closing shall see that no person remains within the warehouse after it is closed, and that all lights and fires have been properly put out.

30. After the closing of the warehouse, the warehouse-keeper shall place the keys of all locks in a box provided for the purpose, and after locking the said box shall forward it to the Superintendent, Preventive Service, or other officer for the time being residing at the Town Custom House; one key of the said box shall remain in charge of the warehouse-keeper and a duplicate with the officer aforesaid.

31. The responsibility of securely closing the doors and windows of the several compartments within the warehouse shall rest with the respective occupants of such compartments and the keys shall remain in their charge.

32. Every person who enters or leaves the warehouse shall be liable to be searched for the purpose of ascertaining if he has opium secreted about him.

33. All cases, bundles and other articles shall be liable to examination when being taken into or removed from the warehouse.

34. Any person found guilty of any breach of the Opium Act or of any rule framed thereunder; or otherwise committing any offence in respect of the warehouse or of the warehouse officials, or of any property contained in the warehouse, may be excluded from, and prohibited entry into, the warehouse by the Collector.

35. The owners of opium stored in the warehouse shall ordinarily pay monthly in advance rent at the rates specified in Table I of Schedule B, but the Commissioner of Customs and Opium may at any time substitute therefore fees at the rates specified in Table II of the same schedule. (Notn. No. 6315, *B.G.G.*, 1885, Pt. I., p. 966.)

36. In the event of any rent (or warehouse-fee) not being paid when due, the Collector may detain any opium in the warehouse, the property of the person or persons by whom such rent (or warehouse-fee) is due, until the claim be satisfied, and no opium in respect of which rent (or warehouse-fees) have not been paid shall be removed from the warehouse until they are paid.

37. The allotment of compartments and of testing rooms in the warehouse shall rest with the Collector, who may at any time revise or alter any such allotment previously made by him.

38. Nothing contained in the foregoing rules shall be deemed to affect opium in the warehouse belonging to or which is to be purchased by or on behalf of Government.

SCHEDULE A.—(*See Rule 10*).

FORM OF EXPORT SHIPPING BILL.

(*Front.*)

Entry of Goods exported by *from the Prince's Dock Bandar per S.S. "Cathay" under English colours to Hongkong.*

1		2	3	4	5	6	7	8	9	10	11
Marks.	Number and kind of Packages.	Description of Goods.	Weight or Quantity.	Whether Duty is leviable according to Tariff or Market value	Tariff Rates for Duty.	Tariff Value for Duty.	Market Rates for duty or value.	Market or Value under Sections XXIX and XXX of Act VIII of 1878.	Rate of Duty.	Amount of Duty.	Number and date of Import Entry.
					Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	
AB 1/18. BC 1/2...	(20) Twenty Chests.	Opium... To be in force for one month from the date of the Export Shipping Bill.	140 lbs. each chest— From Compartment No. 3 (6) six chests. Do. do. No. 5 (7) seven chests Do. do. No. 10 (4½) four and half chests. Do. do. No. 13 (2½) two and half chests. Total ... (20) Twenty chests.				1,250 per chest. 0 0	25,000 0 0			Checked with and noted in Store Register. Pass from the Government Opium Warehouse to the Prince's Dock by Marine Street and Frere Road, in carts in charge of Rāma Govind, opium to the amount and in the packages mentioned in this shipping bill. This pass is to remain in force from 10 A.M. to 5 P.M. this day only. Asst. Collr. of Customs, Opium Department.

Enterer No. 189 declare the contents of this application to be truly stated.

Customs received No. Let Export. *Bombay,* }
189 }

Cashier.

Asst. Collector.

N.B.—When goods are assessable for duty according to Tariff value, columns 5 and 6 are to be filled in for duty, and columns 7 and 8 for re-value, according to the sections of the Act quoted.
When goods are assessable for duty according to real, that is, market value, columns 5 and 6 will be left blank, and columns 7 and 8 filled in.
When goods are assessable for duty according to weight or quantity, columns 5, 7 and 8 will be filled in and column 6 left blank.
Free goods will have columns 7 and 8 filled in. Columns 9 and 10 will be filled in by the Customs Department.

(Reverse.)

Vessel's name may be altered.

Fee one Rupee.

188 Asst. Collector.

Fee received.

Cashier.

Vessel's name may be altered.

Fee one Rupee.

189 Asst. Collector.

Fee received.

Cashier.

After check with the original entry for fresh one may be granted for the portion shut out or not shipped.

Fee one Rupee.

189 Asst. Collector.

No.

FOR MEASUREMENT AT BANDAR AND COLLECTION OF MEASUREMENT FEE.

BOMBAY,_____189 .

Rs. a. p.

Measurement Fee on_____bales levied.....

(Signed)_____

Measurement Fee Clerk.

[*N. B.—Henceforward Export Shipping Bills (Export Notes) will be presented by shippers in triplicate.*

The original of those will be taken with the first boat-load of each consignment to the Ship or Steamer, as the case may be, and delivered to the Master or Commander, who will keep it with him until the loading of the vessel is completed, and, at the time of applying for Port Clearance, deliver all such Export Shipping Bills duly endorsed as to his having received on board the quantity covered by them, together with the Export Manifest in duplicate as usual.

The duplicate copy will be delivered to the Gate-keeper, who will endorse on the back of it the quantity passed by him, and in the evening will return to the Export Department all such duplicates that have been completely disposed of.

The triplicate will remain in the Custom House as Office Record.]

Contents received.

(Signature)_____

Master or Commander of the Ship.

SCHEDULE B.—(*See Rule 35*).

TABLE I.

Rent.

(Notn. No. 6315, *B. G. G.*, 1885, Pt. I., p. 966.)

No. of Compartment in Warehouse.	Rate per mensem.	Payable.	No. of Testing rooms.	Rate per mensem.	Payable
3, 4, 9, and 10	Rs. 80 each...	Monthly in advance.	1 and 7... ...	Rs. 30 each...	Monthly in advance.
1, 7, 13, 15, 16, and 18	Rs. 75 ,, ...	Do. ...	2, 3, 4, 5, 6, 8, and 9.	Rs. 15 ,, ...	Do. ...
2, 5, 6, 8, 11, 12, 14, and 17 ...	Rs. 70 ,, ...	Do. ...	.....	.....	.....

TABLE II.

Warehouse Fees.

When deposited in any Compartment on	Rate.			
	Annas.			
1st Floor	11	Chest or two half-chests.	Before receipt of opium into warehouse.	These rates include both rent for compartment in warehouse and testing-rooms.
2nd do.	10½			
3rd do.	10			

BOMBAY OPIUM WAREHOUSE RULES.

(Notn. No. 4472, *B. G. G.*, 1885, Pt. I., pp. 698—703.)

In exercise of the power conferred by section 8 of the Opium Act, 1878, the Governor in Council is pleased, with the previous sanction of the Governor General in Council, to make the following rules relating to the warehouse appointed in Notification No. 2205,* dated 15th March 1885, (published at page 341 of the *Bombay Government Gazette* of the 19th idem), for the storage and deposit of opium legally imported into the Presidency of Bombay intended for exportation by sea therefrom, *viz.* :—

1. The said warehouse shall be known as "The Bombay Opium Warehouse" and these rules may be cited as "The Bombay Opium Warehouse Rules."

2. In these rules, unless there be something repugnant in the subject or context, any word or expression which is defined in the Opium Act, 1878, or in the Bombay Opium Rules shall be deemed to have the meaning attributed to it by that Act or those rules

3. Opium brought to the warehouse for deposit shall be accompanied by the passport covering it issued at the scales.

4. At the time of receipt of the opium into the warehouse, the warehouse-keeper, or some other officer authorized by him in this behalf, shall examine the marks, numbers and other particulars on the chests or half-chests and verify the same by comparison with those entered in the passport.

5. If the marks, numbers and other particulars on the chests or half-chests are not found to correspond with those given in the passport, the warehouse keeper shall at once report the fact for the orders of the Collector, the opium being held in safe custody pending such orders.

If they correspond, the opium shall be stored in the warehouse.

6. After storage of the opium, the warehouse-keeper shall stamp across the passport the word "warehoused" and shall enter therein, in the place provided for the purpose, the number of the compartment of the warehouse in which the opium has been stored, with the date and his signature.

The passport shall then be sent to the Opium Department.

7. On receipt of the passport in the Opium Department, the particulars thereof shall be entered in a register; the passport shall then be stamped with the word "cancelled" and retained in the Opium Department. The date of warehousing shall also be noted in the register of passports.

8. All opium deposited in the warehouse as above shall be at the disposal of the owners, to be dealt with

*Notification No. 2205 appoints the building, known as the Port Trust Apollo Bonded Warehouse, situated in Marine Street, Fort, Bombay, to be the place for the storage and deposit of opium legally imported into the Presidency of Bombay and intended for exportation by sea therefrom. (Established under authority quoted in Notification No. 3862, *B. G. G.* of 1884, p. 363.)

APPENDIX A.

The direct importation of opium from Málwa is permitted into the Town of Bombay for retail sale in the said town by persons duly licensed there to retail opium subject to the following conditions:— (Notn. No. 2365, *B. G. G.*, 1878, p. 303.)

(*a*).* All opium so imported shall be subject to the rate of duty imposed, for the time being, on opium imported into the Presidency of Bombay for exportation by sea, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 15 of the Rules under the Opium Act, 1878, for the payment of duty on opium intended for exportation by sea.

(*b*). All opium so imported shall, on arrival at Bombay, be deposited either in the Government opium godown, or in the licensed shop of the licensed vendor importing the same.

(*c*). Opium deposited in the Government godown will remain there at the risk of the importer, who shall be at liberty to keep it in his own boxes and under his own keys and seals, and to remove it in reasonable quantities at a time to his shop as he requires it for use; but he shall not be entitled to have access to the godown except during office hours, nor without special permission from the Collector of Customs oftener than twice a week.

(*d*). The quantity of opium to be removed from the Government godown shall on each occasion be presented to the officer in charge of the Opium Department of the Custom House for weighment and registration, and shall be covered by a pass in the Form C, attached to the Rules.

The direct importation of opium from Málwa is permitted into the districts of Ahmedabad, Kaira and the Panch Mahâls for retail sale in the said districts by persons duly licensed in each respective district to retail opium, subject to the following conditions:— (Notn. No. 5214, *B. G. G.*, 1880, p. 850.)

(*a*).* *(The same as condition (a) in the last preceding Notification.)*

(*b*). All opium so imported shall, on arrival, be deposited in the places specified below:—

Opium for Ahmedabad District—In the Stamp Depôt under the Huzúr Deputy Collector, Ahmedabad.

Opium for Kaira District—In the Government Treasuries at A'nand, Thásra, Nadiád and Kaira.

Opium for the Panch Mahâls—In the Government Treasury at Godhra.

(*c*). Opium deposited as aforesaid will remain there at the risk of the importers, who shall be at liberty to keep it in their own boxes and under their own keys and seals, and to remove it to their shops at such times as the Collector may determine, and in such quantities at a time as they may require for use, not being less than the minimum quantity to be fixed by the Collector; they shall not be entitled to have access to the place of deposit except during office hours, nor without special permission of the Collector or other officer duly empowered by the Collector to grant such permission.

(*d*). The quantity of opium to be removed from the place of deposit shall, on each occasion, be presented to the officer in charge of the place for weighment and registration, and shall be covered by a pass in the Form C. attached to the Rules.

The direct importation of opium from Málwa is permitted into the districts of Broach and Poona for retail sale in the said districts by persons duly licensed in each respective district to retail opium, subject to the following conditions:— (Notn. No. 6341, *B. G. G.*, 1881, p. 656.)

(*a*).* (The same as condition (*a*) in Notification 2365 of 1878 above.)

(*b*). All opium so imported shall, on arrival, be deposited in the places specified below:—

Opium for Broach District.—In the Mámlatdár's Treasury at Broach.

Opium for Poona District.—In the Government Treasury at Poona.

(*c*). *(The same as condition (c) in the last preceding Notification.)*

(*d*). *(The same as condition (d) in the last preceding Notification.)*

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* The following condition shall, as soon as is consistent with existing engagements, come into force in lieu of condition (*a*) of Notifications 2365 of 1878, 5214 of 1880, and 6341 of 1881:—

"(*a*) All opium so imported shall be subject to the rate of duty notified from time to time under section 6 of the Opium Act, 1878, to be leviable on opium imported into the Presidency of Bombay for consumption therein, and payment of the duty leviable thereon shall be made in accordance with the provisions of the rules made under section 5 of the Opium Act, 1878."

His Excellency the Governor in Council is also pleased to direct that in paragraph 2 of the same Notifications the following words, namely:—

"that the differential duty, if any, leviable on the opium under the proviso to Rule 10 of the Rules made under section 5 of the Opium Act, 1878, be paid,"

shall be inserted after the words "half-chests purchased" and before the words "and that the opium."

(No. 10197, *B. G. G.*, 1885, p. 2.) Under the provisions of section 10 (*c*) of the Rules framed under sections 5 and 13 of the Opium Act, 1878, and notified in Part I. of the *Bombay Government Gazette* of the 11th October 1883, pages 755 to 772, His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa into the districts of Sholápur and Násik for retail sale in the said districts by the persons duly licensed to retail opium in those districts, subject to the following conditions :—

(*a*). All opium so imported shall be subject to the rate of duty imposed, for the time being, on opium imported into the Presidency of Bombay for home consumption, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rules 15 of the Rules under the Opium Act, 1878, for the payment of duty on opium intended for exportation by sea.

(*b*). All opium so imported into the Sholápur district shall, on arrival, be deposited in the Government Treasury at Sholápur, and all opium so imported into the Násik District shall, on arrival, be deposited in the Government Treasury at Násik.

(*c*.) (*The same as condition* (*c*) *in Notification 5214 of 1880.*)

(*d*.) (*The same as condition* (*d*) *in Notification 5214 of 1880.*)

(No. 2236, *B. G. G.*, 1885, Pt. I., p. 342.) Under the provisions of section 10 (*c*) of the Rules framed under sections 5 and 13 of the Opium Act, 1878, and notified in Part I. of the *Bombay Government Gazette* of the 11th October 1883, pages 755 to 772, His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa into the district of Ahmednagar for retail sale in the said district by the person duly licensed to retail opium in that district subject to the following conditions :—

(*a*). (*The same as condition* (*a*) *in the last preceding Notification.*)

(*b*). All opium so imported into the Ahmednagar District shall, on arrival, be deposited in the Government Treasury at Ahmednagar.

(*Conditions* (*c*) *and* (*d*) *are the same as in Notification 5214 of 1880 above.*

*(Notn. No. 5300, *B. G. G.*, 1885, p. 821.) Persons duly licensed to retail opium in any district or place to which any of the above, Notifications (in this Appendix) applies may supply themselves with opium by purchase from wholesale dealers in Bombay subject to the following conditions, *viz.* :—

(1) that permission be in every case obtained as required by the proviso to No. 12 of the said rules ;

(2) that the differential duty, if any, leviable on the opium under the said proviso be duly paid ;

(3) that the opium be purchased by whole or half chests only ;

(4) that it be shown to the satisfaction of the Collector of Customs and Opium that the whole of the opium purchased has been obtained from the Bombay Opium Warehouse and not from any other place ;

(5) that the opium purchased be forthwith transported to its destination, and lodged for issue in the same manner as if it had been imported direct from Málwa or Meywár, as the case may be.

(Notn. No. 7594, *B. G. G.*, 1889, pp. [illegible] 358.) The direct importation of opium from Málwa or Meywár is permitted into the district of Khándesh for retail sale in the said district by the person duly licensed to retail opium in that district, subject to the following conditions :—

(*a*) All opium so imported shall be subject to the rate of duty imposed, for the time being, on opium imported into the Presidency of Bombay for home consumption, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 17 of the Rules under the Opium Act, 1878, for the payment of duty on opium intended for exportation by sea.

(*b*) All opium so imported into the Khándesh District shall, on arrival, be deposited in the Government Treasury at Dhulia.

(*Conditions* (*c*) *and* (*d*) *are the same as in Notification 5214 of 1880 above.*)

2. The person duly licensed to retail opium in the aforesaid district is further permitted to supply himself with opium by purchase direct from wholesale dealers in Bombay, subject to the conditions set forth in Notification No. 5300 of 1885 (*vide supra.**)

APPENDIX B.

His Excellency the Governor in Council is pleased to rule that the Pálanpur-Ahmedabad State Railway be the route by which alone opium from Baroda territory may be imported into the Bombay Presidency for transmission to the scales at Ahmedabad. All opium so

imported shall be carried direct to the Government Opium Agency in the town of Ahmedabad—Government Notification No. 3340 of 29th June 1880.

APPENDIX C.

Dádar Station on the G. I. P. Railway has been appointed an examining station for opium booked through for re-exportation—Government Resolution No. 2250, dated 5th April 1882.

Kalyán Station on the G. I. P. Railway has been appointed an examining station for opium booked through from Khandwa to Hyderabad and stations on the Nizám's State Railway—Government Notification No. 6004, dated 8th November 1879.

Ahmednagar on the Dhond-Manmád State Railway have been appointed an examining station for opium booked through for Madras, Hyderabad and stations south of Ahmednagar—Government Notification No. 6466, dated 3rd December 1879.

APPENDIX D.

5th July 1890.

In exercise of the powers conferred by section 6 of Act I of 1878 (the Opium Act, 1878), the Governor General in Council is pleased to reduce by Rs. 50 per chest the duty on opium imported by land into the Presidency of Bombay for exportation by sea from the Port of Bombay. (Notn. No. 3242, *B. G. G.*, 1890, Pt. I., p. 641, republishing G. of I. Notn. No. 4767.)

Accordingly it is hereby notified that, till further orders, all opium imported by land into the Presidency of Bombay and covered by a pass for exportation by sea from the Port of Bombay granted in accordance with Rule 16 of the Rules made under the Opium Act, 1878, published by the Government of Bombay in their Notification No. 4472A.,* dated 3rd June 1885, shall be subject to the following duty upon each chest weighing net 140¼ lbs. avoirdupois weight, namely:—

* Published at pages 704 to 715 of Part I. of the *Bombay Government Gazette* of the 4th June 1885.

When the pass for such opium is granted at Ajmere	...	Rs. 625
When the pass for such opium is granted elsewhere	...	„ 600

All opium imported by land into the Presidency of Bombay, and *not covered by a pass for exportation by sea from the Port of Bombay*, granted in accordance with Rule 14† of the Rules made under the Opium Act, 1878, and published by the Government of Bombay, will be subject to the following duty upon each chest weighing net 140¼ lbs. avoirdupois weight, namely:— (Notn. No. 7335, *B. G. G.*, 1882, Pt. I., p. 965, republishing G. of I. Notn. No. 4709 F. and C. of 3rd November 1882.)

When the pass for such opium is granted at Ajmere	...	Rs. 725
When the pass for such opium is granted elsewhere	...	„ 700

The order of the Government of India reducing by Rs. 50 per chest the duty on opium referred exclusively to opium imported by land into the Presidency of Bombay for exportation by sea from the Port of Bombay. It did not purport to affect the rate of duty on opium imported by land into this Presidency for home consumption (G. R. No. 6402 15th September 1882, R.)

APPENDIX E.

The following officers are authorised to act within the limits of their respective charges, under the sections of the Opium Act, 1878, hereinafter respectively named (namely):—

Under section 12, paragraph 3.—The Collector of Salt Revenue (so far as regards any opium or other things seized by himself or by any officer subordinate to him.) (Notn. No. 3578, *B. G. G.*, 1879, Pt. I., p. 609.)

Under section 14.—All officers of the Revenue Department invested with Magisterial powers, all Police officers superior in rank to a Head Constable, all Sar-Kárkúns and Inspectors in the Departments of Opium and A'bkári, the Collector, Deputy Collector, and all Assistant Collectors of Salt Revenue, the Superintendent of the Coast Guard Service and all Coast Guard Inspectors, Frontier Inspectors, Sar-Kárkúns of Tálukas and supervisors of Distilleries subordinate to the Collector of Salt Revenue, Sub-Inspectors in the Department of Opium (Ábkári) and Inspectors of Salt Revenue in Sind. (Notn. No. 9339, *B. G. G.*, 1883, p. 1000.)

Under section 19.—The Collector, Deputy Collector and all Assistant Collectors of Salt Revenue. (Notn. No. 7249, *B. G. G.*, 1885, p. 1102.)

Under section 22.—All Collectors, Assistant and Deputy Collectors, Mámlatdárs, Mukhtyárkars, Aval-Kárkúns and Head Munshis.

Under section 24.—All Assistant and Deputy Collectors, Mámlatdárs, Mukhtyárkar and Mahálkaris.

† Rule 16 of Rules of 1885, given in this compilation.

APPENDIX F.

(Notn. No. 221, B. G. G., 1883, Pt. I., p. 28.)

Under section 133 of Act VIII of 1878 (the Sea Customs Act).—His Excellency the Governor in Council is pleased, with the previous sanction of His Excellency the Governor General of India in Council, to declare that a fee on opium, not the produce of India, imported by sea into the Ports of Bombay, Karáchi, or Aden, and *transhipped* in any of the said ports, shall be levied at the following rates on each chest not exceeding 140¼ pounds avoirdupois net weight:—

When the consignment does not exceed 150 chests, at			Rs.	5 per chest.
From 151 to 300 chests, at	...	...	„	4 „
From 301 to 600 chests, at	...	...	„	3 „
From 601 chests, and upwards at	...	...	„	2 „

(Notn. No. 7599 *A*, *E. G. G.*, 1884, p. 706.)

A fee on opium which is the produce of India, imported by sea into the Port of Aden and there transhipped, shall be levied at the same rates.

PART XIII.

A'BKA'RI.

NOTIFICATIONS UNDER THE BOMBAY A'BKÁRI ACT, V OF 1878.

Section 1.—The Act came into force throughout the Presidency on 1st January 1879 and in the territories of Bhor, Jath and Daflápur under the Sátára Political Agency on 6th June 1879. (Notification No. 5756, *B. G. G.*, 1878, p. 708; Notification No. 2863, *B. G. G.*, 1879, p. 569.)

It is in force in the State of Akalkot. (Notification No. 5728, *B. G. G.*, 1879, p. 966, and Notification No. 3413, *B. G. G.*, 1880, p. 658.)

Appointments and Powers.

Section 3.—The Commissioner of Customs is appointed, for the purposes of the Act, Commissioner of Ábkári revenue for the whole of the Presidency of Bombay except Sind and the Settlement of Aden. (Notification No. 5757, *B. G. G.*, 1878, p. 708.)

The Political Resident at Aden is appointed Commissioner of Ábkári for that settlement. (Notification No. 6161, *B. G. G.*, 1878, p 787.)

Section 5.—The following officers are appointed to exercise all the powers and perform all the duties of a Collector under the Act within the limits mentioned :—

The Assistant Resident at Aden for the time being in charge of the Ábkári Department in that settlement. (Notification No. 712, *B. G. G.*, 1886, p. 91.)

The Political Superintendents (now Deputy Commissioners), Thar and Parkár, Upper Sind Frontier, within the districts under their charge. (Notification No. 4196, *B. G. G.*, 1879, p. 690.)

Subject to the control of the Collector, the First Assistant Collector of Bombay within the islands of Bombay. (Notification No. 2202, *B. G. G.*, 1887, p. 295.)

The Collector of Salt Revenue in respect of every distillery directed by Government to be under the control of the Salt Department. (Notification No. 2127, *B. G. G.*, 1879, p. 494.)

Powers under Sections 33, 36, 37 and 40.

The Deputy and Assistant Collectors of Salt Revenue within the limits of their respective charges are invested with powers under sections 33, 36, 37 and 40. (Notification No. 2127, *B. G. G.*, 1879, p. 494.)

Every Assistant Collector of Salt Revenue within whose range there is a distillery directed by Government to be under the control of the Salt Department is invested with powers under section 13. (Notification No. 2127, *B. G. G.*, 1879, p. 494.)

Every supervisor of any such distillery is invested with powers under sections 13, 33, 36 and 37. (Notification No. 2127, *B. G. G.*, 1879, p. 494.)

A'bkári Inspectors and Sub-Inspectors are invested with powers under sections 36 and 37. (Notification No. 5739, *B. G. G.*, 1879, p. 826.)

The following officers are invested with powers under sections 13, 36, 37, 40 and 45(*a*) :—

Every Assistant and Deputy Collector in charge of a Huzúr Station or Sub-division of a district and

Every Mámlatdár, Mahálkari and Aval-Kárkún having Magisterial powers within the limits of their respective charges under the general control of the Collector. (Notification No. 5759, 1878, p. 708.)

The following officers are invested with powers under section 36 :—

The Superintendent (now Assistant Collector of Salt Revenue) of the Coast Guard Service, all Coast Guard and Land Frontier Inspectors, all Sar-Kárkúns of Tálukás, all Police Patels, and all Police officers above the grade of a Head Constable, and in the districts of Kolába and Thána, all Head Constables, and in the district of Ratnágiri the Head Constables from time to time posted for patrol duty on the Habsán and Goa Frontier and within the limits of their respective charges all Head Constables in charge of Táluka or Mahál Police Stations. (Notification No. 2127, *B. G. G.*, 1879, p. 494; Notification No. 1925, *B. G. G.*, 1882, p. 230; Notification No. 2511, *B. G. G.*, 1885, p. 427; Notification No. 4340, *B. G. G.*, 1887, p. 604.)

Section C.—The following officers are invested with powers under section 37 :—

All officers of the Salt Department, Ábkári Police, all Police officers, all Police Pátels, and all Municipal Executive Officers in receipt of a salary not less than Rs. 10 per mensem and being on the permanent establishment, and all orderlies and detectives employed in the Khándesh District on A'bkári duty, and all officers of the Salt Department, all Nákedárs and peons appointed for the purpose of registration of land trade statistics, and all officers of the Customs and Preventive Service and officers of the Tobacco Department under the orders of the Assistant Collector of Customs. (Notification No. 2127, *B. G. G.*, 1879, p. 494; Notification No. 5379, *B. G. G.*, 1879, p. 826; Notification No. 5048, *B. G. G.*, 1880, p. 781; Notification No. 6700, *B. G. G.*, 1882, p. 753; Notification No. 965, *B. G. G.*, 1890, p. 77; Notification No. 2167, *B. G. G.*, 1881, p. 194.)

(Notn. No. 5266, *B. G. G.*, 1879, p. 816.) (Notn. No. 1486, *B. G G.*, 1880, p. 304, and (Notn. No. 144, *B. G. G.*, 1882, p. 12.)

To issue permits under section 13.

The following officers are invested with power, to the extent mentioned, of issuing permits under section 13 of the Act for the transport or removal of country liquor or intoxicating drugs from any place within their respective charges :—

	Quantities for which permits may be given.		Places for transport or removal to which Permits may be given.
	Country Liquor.	Intoxicating Drugs.	
Police Patels, or in Sind Tapadárs, specially nominated by the District Magistrate to whom they are subordinate, for the exercise of such powers.	Not exceeding 8 gallons,	Not exceeding 100 tolás.	Any place in the same táluka.
Mámlatdárs, Mahálkaris (or in the absence of Mámlatdárs or Mahálkaris, their First Kárkúns), Chief Constables and A'bkári Inspectors.	Not exceeding 500 gallons.	Not exceeding 2 Indian maunds.	Any place in the same district.
Assistant and Deputy Collectors, Cantonment Magistrates, Superintendents and Assistant Superintendents of Police, and the Commissioner and Assistant Commissioner of Police, Bombay.	Any quantity ...	Any quantity. ...	Any place.
A'bkári Sub-Inspectors specially nominated by the Collector to whom they are subordinate for the exercise of such powers.	Not exceeding the quantity to be fixed by the Collector in each case, not being in excess of 500 gallons of country liquor, or 2 Indian maunds of intoxicating drugs.		Any place in the same district.

(Notn. No. 973, *B. G. G.*, 1886, p. 122.) All Police Patels in the Surat District are invested with power to issue permits under section 13 for the transport or removal of country liquor not exceeding 8 gallons from any place within the limits of their respective charges to any other place in the same táluka.

(Notn. No. 7728, *B. G. G.*, 1888, p. 983.) In Sind—

The Collector of Customs, Karáchi,

The Assistant Collector of Customs, Karáchi,

The Ábkári Inspector, Karáchi town,

are invested with the power of issuing permits* under section 13 for the transport of country liquor from Karáchi to any place in Sind.

(Notn. No. 4087, *B. G. G.*, 1879, p. 678, and Notn. No. 1486, *B. G. G.*, 1880, p. 304.)

Permits for sale.

The following officers are invested with the power, to the extent mentioned, of giving special orders under para. 2 of section 17, within the limits of their respective charges, for the occasional sale of country liquor or intoxicating drugs in excess of the limit from time to time prescribed by Government under para. 1 of section 17 :—

* Form of permit prescribed for Sind by G. R. No. 369, dated 19th January 1888 :—

Form.

(Name and residence of person to whom permit is issued), is hereby authorised to transport (quantity and description of liquor or drug) from (name of place) to (name of place) by (route in case of place more than ten miles apart) between (hour and date) and (hour and date).

(Signature of officer issuing permit.)

	Quantity for which special orders may be given.	
	Country Liquor.	Intoxicating Drugs.
Police Pátils, or in Sind Tapádárs, specially nominated by the District Magistrates to whom they are subordinate for the exercise of such powers.	Not exceeding 8 gallons ...	Not exceeding 20 tolás.
Mámlatdárs, Mahálkaris (or in the absence of Mámlatdárs or Mahálkaris), their First Kárkúns, Chief Constables and Ábkári Inspectors.	Not exceeding 20 gallons ...	Not exceeding 250 tolás.
Assistant and Deputy Collectors, Cantonment Magistrates, Superintendent and Assistant Superintendents of Police and the Commissioner and Deputy Commissioner of Police of Bombay.	Any quantity	Any quantity.

All liquor manufactured at His Highness the Rája of Dharampor's distillery at Dharampor, which is transported from the said distillery through any part of the district of Surat to His Highness' village of Sarangpor under permits for such transport signed by the Darogha of the said distillery, is exempt from duty under the Act. (Notn. No 6357, *B. G.*, 1886, 750.)

Section II.—Exemption from duty.—Liquor is exempt from duty which is manufactured at His Highness the Gáikwár's distilleries at Baroda, Kathor and Vyara and which is transported from one part of His Highness' territories through any part of British territory situated within the districts of Kaira, Surat and Khándesh, to any other part of His Highness' territories, under permits for such transport which may be obtained from the following officers:— (Notn. N 8827, *B. G.*, 1887, 1009.)

The Subhás of Baroda and Navsári Divisions.

The Náib Subhás of Baroda Division.

The Ábkári Superintendents of Baroda and Navsári Divisions.

The Vahivatdárs of Baroda, Petlád Jarod, Samkheda, Vyara, Songad and Kathor, and their First Kárkúns. (Notn. No 655, *B. G.* 1888, p. 1(

The special Magistrates of Vasa and Sajitra.

The three Náib Subhás of the Navsári Division of His Highness the Gáikwár's territory and the Vahivatdár and First Kárkún of the Maháls of Navsári, Gandevi, Moha, Palsana, Kathor, Kamrej and Velacha. (Notn. No 3037, *B. G G.*, 1888, 427.)

Mahálkaris of Ghisva, Tilakwada, Vákal and Vijápur and their First Kárkúns.

Each such permit shall specify—

(*a*) the number and date thereof,

(*b*) the name of the transporter,

(*c*) the number and description of the vessels containing liquor,

(*d*) the quantity and strength of liquor contained in each vessel,

(*e*) the names of the places from and to which liquor is to be transported,

(*f*) the route by which liquor is to be transported,

(*g*) the mode of conveyance and

(*h*) the date up to which the permit shall hold good,

and each of the vessels containing liquor shall be securely closed and sealed and shall have marked on it the quantity and strength of the liquor contained therein.

Liquor manufactured at His Highness' distillery at Navsári which is transported from one part of His Highness' territory through any part of British territory situated within the district of Surat to any other part of His Highness' territory is also exempted from duty. (Notn. No. 3037, *B. G. G.*, 1888, p. 427.)

Maximum Quantities of Country Liquor and Intoxicating Drugs that may be transported without Permit.

tn. No. 3A., *B. G.* 1886, p. and Notn. 9289, *B.* ., 1891, 0.)

The following are prescribed as the maxima quantities of country liquor and intoxicating drugs which may be transported or removed without a permit from any one place to any other place hereinbelow respectively specified :—

Area.	Article.	Maximum Quantity.	
		If transported or removed from one place to another within the area named.	If transported or removed from any place within the area named to any place without the said area or *vice versâ*.
City of Bombay	Country liquor of every kind except toddy.	One imperial gallon or six reputed quart bottles.	One quarter of a pint.
Local limits of the farm of any farmer of the revenue from country liquor other than toddy, beyond the limits of the City of Bombay.	Do. ...	Do. ...	Do.
City of Bombay	Toddy of every discription not being unfermented toddy in transport from the place where it is drawn to the place where it is to be licitly disposed of.	Four imperial gallons.	Do.
Districts of Thána and Kolába ...	Do. ...	Four imperial gallons.	
Each Táluka and Mahál of the Districts of Surat, Ratnágiri and Kánara.	Do. ...	Do. ...	One quarter of a pint.
Each Táluka and Máhal in the Presidency excepting Sind, Aden, the City of Bombay and the Districts of Surat, Thána, Kolába, Ratnágiri and Kánara.	Do. ...	One imperial gallon .	Do.
The whole of the Presidency except Sind and Aden.	Intoxicating drugs ...	Half an Indian ser or 40 tolás.	Half an Indian ser or 40 tolás.

otn. No. 48, *B. G. G.*, 95, p. 665.)

Transport of Malt Liquor from Dápoli Brewery.—4,000 imperial gallons is prescribed as the maximum quantity of malt liquor which may be transported or removed without a permit from the Brewery at Dápoli near Poona to any other place in the Bombay Presidency.

Notn. No. 723, *B. G. G.*, 887, p. 495.)

Transport of Country Liquor in Sind.—One gallon or six reputed quart bottles is prescribed as the maximum quantity of country liquor which may be transported or removed without a permit from any one place to any other place in the Province of Sind.

This restriction does not apply to unfermented toddy in transport from any place where it is drawn to the place where it is to be licitly disposed of in that province.

Notn. No. 681, *B. G. G.*, 888, p. 602.)

Transport of intoxicating drugs in Sind.—No intoxicating drug exceeding in quantity half an Indian ser or 40 tolás shall be removed from any one place to other place in the Province of Sind.

Maximum Quantities of Retail Sale of Country Liquor and Intoxicating Drugs in the Presidency of Bombay, excluding Sind.

Section 17.—The maximum quantity of country liquor or any intoxicating drug which may be sold by retail at any one time or to one and the same person in the aggregate on any one day shall be as follows in the areas respectively defined :— (Notn. No. 2553, *B. G. G.*, 1885, p. 429.) (Notn. No. 4526, *B. G. G.*, 1886, p. 547.) (Notn. No. 4589, *B. G. G.*, 1886, p. 547.)

Area.	Article.	Maximum Quantity.
The City of Bombay, the Districts of Surat, Thána, Kolába, Ratnágiri and Kánara.	Toddy	Four Imperial gallons.
The Districts of Surat, Thána, Kolába, Ratnágiri and Kánara.	Country liquor other than toddy.	One Imperial gallon.
District of Khándesh, and in the— Kalvan, Báglán, and Peint Tálukás of the Násik District.	Country liquor of any kind...	One-third of an Imperial gallon or 2 reputed quart bottles.
The whole Presidency of Bombay *except* Sind, Aden, the City of Bombay, the Districts of Surat, Thána, Kolába, Ratnágiri, Kánara and Khándesh, and the— Kalván, Báglán, and Peint Tálukas of the Násik District.	Do. do. ...	One Imperial gallon.
The whole Presidency except Sind	Intoxicating drugs	Half an Indian seer or 40 tolás.

In the Province of Sind—

(*a*) The maximum quantity of *country liquor* which may be sold at one time or to one and the same person in the aggregate in any one day is one gallon or six reputed quart bottles, and (Notn. No. 3723, *B. G. G.*, 1887, p. 495.)

(*b*) *No intoxicating* drug exceeding in quantity *half an Indian ser* or *40 tolás* shall be *sold* by *retail* to one and the same person in the aggregate on any one day or be possessed by any person without a license or permit from competent authority. (Notn. No. 4681, *B. G. G.*, 1888, p. 602.)

Section 19.—A duty at the rate of Rs. 5 per Imperial gallon of the strength of London proof shall be levied on all spiced liquor not being of a strength exceeding 10° U.P. or below 25° U.P. issued from the public distilleries at Uran in the island of Karanja in the Kolába District for transport to the Town and Island of Bombay, and on all similar spiced liquor issued from the Central Distillery at Surat for transport to the Town and Island of Bombay or for consumption within the limit of the Surat District, the duty being reduced in proportion as the strength of the spirit is less than London proof. The duty shall be calculated on the strength of the spirit ascertained by test before it is sweetened. (Notn. No. 8312, *B. G. G.*, 1887, p. 957.) (Notn. No. 8683, *B. G. G.*, 1887, p. 984.)

Section 23.—Section 23 is declared applicable to the area within the municipal limits of the city of Hyderabad, Sind, and within the limits of Deh Barchain, Tapo Kathir, táluka Hyderabad, Sind. (Notn. No. 1900, *B. G. G.*, 1883, p. 218.)

Section 27.—Orders concerning the levy of duties in respect of intoxicating drugs in the whole of the Presidency of Bombay (excepting Sind). (Notn. No. 4421, *B. G. G.*, 1880, p. 716.)

1. The duty leviable on account of a license for the joint privileges of manufacture and retail sale of intoxicating drugs shall be fixed by the Collector, who, before granting

any such license, shall put up the said privileges to auction. Bidders at the auction shall be called upon to bid the aggregate amount of duty which they are willing to pay for the privilege of manufacturing and the exclusive privilege of selling intoxicating drugs by retail at one or more shops within the local limits to which the auction extends. The auction should be held subject to confirmation by the Collector who should not bind himself to accept the highest or any bid, but the amount of the bid, if any, which he accepts, should be divided as nearly as possible into as many equal instalments as there are months in the period for which the said joint privileges are to be disposed of. The conditions of sale and other details for the conduct of the auction should be settled from time to time by the Collectors under the orders of the Commissioner.

2. No duty shall be leviable in respect of the sale of intoxicating drugs by a cultivator or owner of any plant from which such drugs are manufactured or produced, nor in respect of the wholesale sale of intoxicating drugs by merchants or dealers, nor except as aforesaid, in respect of the manufacture of intoxicating drugs.

3. When a permit is granted for the import or export of any intoxicating drug, or for the transport of any such drug, between two places not situated within the same district, duty shall be levied on the intoxicating drugs permitted to be so imported, exported or transported at the following rates, *viz.* :—

	Rs.	a.	p.
if the amount does not exceed 10 Indian maunds	5	0	0
for every additional 2 Indian maunds or fraction thereof	1*	0	0

(*Notn. No. 4569, *B.G.G.*, 1880, p. 740.)

Provided that :

(*a*) if in the course of one continuous transaction any intoxicating drugs have, after importation or before exportation, to be transported from one place to another within the Presidency of Bombay, or,

(*b*) if during the course of transporting any such drugs from one place to another within the said Presidency it is necessary to export and afterwards again to import the said drugs,

duty at the above rates shall be leviable once only, notwithstanding that separate permits for import, export and transport are granted.

4. No duty shall be leviable in respect of intoxicating drugs permitted under section 13 to be transported from one place to another situated within the same district.

Section 30.—Under section 30 :—

(1) Licenses, counterpart agreements and permits in respect of intoxicating drugs shall contain the particulars and be granted subject to the instructions and conditions, respectively set forth in the forms A to G hereto annexed;

(2) Licenses in forms A and B shall be granted for a period of one year commencing on the 1st August in one year and ending on the 31st July in the next following year; permits in forms D, E and G shall be granted with validity for such periods as the officer granting the same shall in each case deem fit, but not exceeding, ordinarily, double the length of time actually necessary for the purpose for which the permit is granted; and permits in form F may be granted for such period not exceeding six months as the officer granting them shall in each case deem fit;

(3) No fee shall be charged for any license or permit issued in respect of intoxicating drugs.

Licenses under section 16.

Every license issued under section 16 of the Bombay A'bkári Act, 1878, for the sale on and after the 1st August 1884, within the limits of any monopoly farm for the manufacture and sale of country spirit of strength not exceeding 25° U. P. of— (Notn. No. 2841, *B.G.G.*, 1884, p 276.

(*a*) imported foreign spirit,

(*b*) country liquor charged under section 19 of the Bombay Abkári Act, 1878, with duty at the same rate as may be leviable under the Indian Tariff Act for the time being in force on foreign spirit imported into India,

shall contain, in addition to the usual conditions, the condition mentioned below, *viz* :—

that the licensee shall not sell, or have in his licensed shop, or in its precincts spirit of any kind of strength less than 15° below London Proof.

The exclusive right of manufacturing and selling country spirit of strength not exceeding 25° below London Proof is at present farmed in every part of the Presidency of Bombay except in the Town and Island of Bombay.

This notification does not apply to Aden and has been suspended in Sind. (Notn. No. 6184, *B.G.G.*, 1884, p. 575.)

Section 35.—The rules by the Commissioner under section 35 (*e*) for the distillery at Dádar in the Island of Bombay, are published at *Bombay Government Gazette*, 1889, pages 466—467. Those for the public distilleries in the Thána and Kolába Districts are published at *Bombay Government Gazette*, 1888, pages 210—211.

*Rules, under section 59, regulating the payment of Rewards to Officers and informers.**

(1) Except in the Town and Island of Bombay, it shall be in the discretion of the Magistrate trying the case to grant a reward, not exceeding the proceeds of any fine imposed under the provisions of the Act, to any officer or other person whose conduct in connection with the case may, in the opinion of the said Magistrate, entitle him to reward. (Notn. No. 6628, *B.G.G.*, 1888, p. 786, superseding Notn. No. 6596, *B. G. G.*, 1878, p. 857.)

(2) In the Town and Island of Bombay, the Collector shall have the same discretion as regards rewards to be granted out of the proceeds of fines under the Act.

(3) It shall be in the discretion of the Collector to grant a reward, not exceeding the proceeds of any confiscation adjudged under the Act, to any officer or other person whose conduct in connection with the case may, in the opinion of the Collector, entitle him to reward.†

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*The Magistrate is bound to name each person to whom a portion of the fine is to be given by way of reward: I. *vs.* Ambu Balya—B. H. Cr. Rgs., 1st August 1889.

† The following rules as to rewards to be given departmentally and not out of fines and confiscations have been approved by Government. They are not framed under the Act :—

4. In any case in which, in the opinion of the Commissioner, any person has performed service of special merit in respect of the prevention or detection of illicit distillation or smuggling of liquor or of any offence against the Act, the Commissioner may grant to such person a reward not exceeding in amount five hundred rupees.

5. The Commissioner, or with the sanction of the Commissioner, a Collector, may incur at his discretion expenditure not exceeding five hundred rupees in each case for the employment of informers or for any other purpose connected with the prevention or detection of illicit distillation or smuggling of liquor or of any offence against the Act.

6. The Commissioner shall, from time to time, report to Government the circumstances under which any reward may have been granted or expenditure may have been incurred under Rules 4 and 5. (Government Resolution No. 6628, dated 3rd October 1888, R D.)

FORM A.

License for the manufacture and retail sale of Intoxicating Drugs.

Be it known that the Collector of hereby confers upon of the privilege of manufacturing and the sole privilege of selling by retail bháng (or gánja, &c., *as the case may be*) in the district (or táluka, mahál, &c.,) of during the term of one year commencing on the 1st August 1889, and ending on the 31st July 1889, both days inclusive, subject to the conditions hereinafter mentioned, that is to say:—

(1.) That he shall pay monthly in advance on the 1st day of each month, commencing on the 1st August 1889, on account of duty a sum of Rs. into the Government Treasury at ;

(2.) That all risks of loss from failure of seasons or from any other cause whatsoever shall be borne by him, and he shall make all payments of duty as aforesaid from time to time as they fall due, without any excuse or claim for compensation whatever;

(3). That he shall keep a shop (or shops) only at the place (or places) noted in the margin or at such other places as the Collector shall from time to time sanction;

(4.) That he shall make his own arrangements for obtaining supplies of intoxicating drugs which he is hereby licensed to sell: provided always that he shall not purchase the same from any person in the Presidency of Bombay who does not hold a license for the sale thereof, and that if he wishes to import or to transport or remove any intoxicating drugs he shall be subject in doing so to all the provisions of the Bombay Abkári Act, 1878, and of the rules and orders in force thereunder;

(5.) That any stock of intoxicating drugs which he is hereby licensed to sell which may remain unsold in his hands on the expiration of this license on 31st July 1889, or if it should be in the meantime recalled, on its being so recalled shall, unless in the former case the licensee obtains a fresh license for the retail vend of bháng (gánja, &c., *as the case may be*) during the year then next ensuing, be the property of Government and may be taken possession of by the Collector on 1st August 1889, or immediately upon the recall of the license, as the case may be;

(6.) That he will sell intoxicating drugs in virtue of this license only at the shop (or shops) hereinbefore specified, and unless with the previous written sanction of the Collector, will keep such drugs only at the said shops;

(7.) That he shall from time to time submit to the Collector, for his approval, the name, age, and address of any person whom he proposes to employ at his shop (or shops) and shall forthwith dismiss from his service any person so employed on being required so to do by the Collector;

(8.) That he will not sell to one and the same person on any one day any intoxicating drugs exceeding in the aggregate half an Indian seer, or 40 tolas, unless under the authority and in accordance with the terms of a special order duly made in this behalf under section 17 of the Bombay Abkári Act;

(9.) That he will not receive grain, goods, ornaments, wearing apparel or other property in barter or pawn for intoxicating drugs;

(10.) That he will not open his shop (or any of his shops) or make sales therein before sunrise, that he will not keep his shop (or any of his shops) open or make sales therein after sunset, and that he will not harbour any person therein during the night;

(11.) That he will not permit persons of notoriously bad character to resort to his shop (or to any of his shops), that he will prevent gaming and disorderly conduct therein, and that he will give information to the nearest Magistrate or Police Officer of any suspected person who may resort to his shop (or to any of his shops);

(12.) That he shall have constantly fixed up in a conspicuous part of the front of his shop (or of each of his shops) a sign-board bearing in legible characters in the vernacular language his name and the words "licensed to sell ";

(13.) That he will keep a daily account at his shop (or at each of his shops), showing the quantities and descriptions of the drugs purchased or imported, the price paid for the same, the names of the persons from whom they are bought, the quantities and descriptions of drugs respectively manufactured and sold each day, and in the case of the drugs sold the names of the persons to whom they are sold and the prices charged for them; and will produce the said account for inspection whenever

required by the Collector or by any subordinate whom he may depute for that purpose, and will also furnish such returns and information as may from time to time be called for by the Collector;

(14.) That if the Collector at any time so requires, the weights or measures used in his shop (or in any of his shops) shall be such only as may be prescribed by the Collector, and shall be tested and stamped, at his expense, at the Collector's or the Táluka Office;

(15.) That he will not, without the previous written permission of the Collector, sublet, in whole or in part, the right of vend conferred upon him by this license or admit partners into his business;

(16.) That this license may be recalled by the Collector in the event of default in the punctual payment of the duty stipulated to be paid in clause 1, or of the infringement by the licensee, or by any of his servants, of any of the conditions hereof, or of any provision of the law relating to Ábkári revenue or of any rule or order framed under any such law for the time being in force;

Should this license be so recalled, the right of manufacture and of retail vend for the unexpired portion of the period for which this license is granted may be again disposed of or not as the Collector thinks fit. In either case the licensee shall continue responsible for the instalments of duty stipulated for in clause 1 of this license. If the right of vend is re-disposed of, he shall receive credit for all payments of duty recovered from the new licensee up to the amount of the duty still payable by him, but shall not have any claim to the profit, if any, realized by Government by such re-disposal.

Dated this day of 189 .

(Signed)

Seal of the Collector.

Collector.

FORM B.

License to be granted to cultivators or owners of plants from which intoxicating drugs are manufactured or produced for the sale, or for the manufacture and sale of intoxicating drugs, or to merchants and dealers for the wholesale sale of such drugs.

Be it known that of is hereby authorized by the Collector of to (manufacture and) sell bháng (or gánja, &c., *as the case may be*) by wholesale at during the term of one year commencing on the 1st August 189 and ending on the 31st July 189 , both days inclusive, subject to the conditions hereinafter mentioned, that is to say :—

(1.) That he shall not sell the said drug (or drugs) to any person other than a licensed wholesale or retail vendor or a licensed exporter thereof, and shall not permit the same to be transported or removed from the place of sale except under a permit duly obtained under the Bombay A'bkári Act, 1878;

* To be inserted only when the license is granted to a merchant or dealer for wholesale sale.

(2.) *That he shall not sell the said drug (or drugs) in smaller quantities than

(3.) That this license may be recalled by the Collector in the event of the infringement by the licensee, or by any of his servants or agent, of any of the conditions hereof, or of any provision of the law relating to Ábkári revenue, or of any rule or order framed under any such law for the time being in force.

Dated this day of 189 .

(Signed)

Seal of the Collector.

Collector.

FORM C.

Counterpart agreement to be executed by intending Licensee.

I, , in consideration of the Collector of granting to me a license under the Bombay Abkári Act, 1878, for the wholesale (or retail) vend (and manufacture) of bháng (or gánja, &c., *as the case may be*) at (or in the district or mahál, &c., of) for the period of one year commencing on the 1st August 189 , and ending on the 31st July 189 , both days inclusive, do hereby agree with the said Collector as follows, viz. :—

(*Here enter the various clauses of the License substituting the first for the third person.*)

*And as security for the due performance by me of the conditions aforesaid, I have this day deposited with the Collector the sum of Rs. . In the event of my making default in any payment due by me under the conditions aforesaid, the said money may be applied by the Collector in liquidation, as far as possible, of the demand against me, the balance only, if any, being returned to me. If I duly perform all the aforesaid conditions the said money is to be returned to me.

* This clause to be added only when a deposit is made.

Dated this day of 189 .

(Signed)

Signed by the said Licensee.

in the presence of

FORM D.

Collector's Seal.

No

Date

Name of Importer

Drugs to be imported.

Description.	Quantity.

Whence to be imported

Place of import

Duty paid Rs.

Date up to which permit will be in force

Collector.

Import Permit for Intoxicating Drugs.

No. *Office of the Collector of* .
Dated 189 .

of

is hereby authorized, subject to the conditions noted on the reverse, to import at from

Description.	Quantity.

Intoxicating Drugs of the descriptions and quantities specified in the margin.

This Permit, which has been granted on payment by the Importer of a duty of Rs. will be in force only up to the evening of the

Collector.

FORM E.

Export Permit for Intoxicating Drugs.

No.

Date

Name of Exporter

Drugs to be exported.

Description.	Quantity.

Destination

Place of export

Duty paid Rs.

Date up to which permit will be in force

Collector.

No. *Office of the Collector of*
Dated 189 .

of

is hereby authorized, subject to the conditions noted on the reverse, to export at to

Description.	Quantity.

Intoxicating Drugs of the descriptions and quantities specified in the margin.

This Permit, which has been granted on payment by the Exporter of a duty of Rs. will be in force only up to the evening of the 189 .

Collector.

Note.—This Permit and the drugs imported in virtue thereof must be presented at the time of import for examination to the of

and after import the Permit must be delivered to the of

(*Any other terms which the Collector thinks fit to impose under section 9 (c) of the A'bkári Act should be inserted here.*)

Note.—This Permit and the drugs exported in virtue thereof must be presented at the time of export for examination to the

and after export the Permit must be delivered to the of

(*Any other terms which the Collector thinks fit to impose under section 10 (e) of the A'bkári Act should be inserted here.*)

FORM F.

General Permit for transport or removal of Intoxicating Drugs.

No.

Date

Name of Permit-holder

Description of Drugs.

Route

Period for which permit is granted :

commencing the

No.

Date

of

is hereby permitted, subject to the terms noted on the reverse, to remove intoxicating drugs of the descriptions noted in the margin from to , from time to time as he finds it necessary.*

Description.

Such drugs are to be conveyed by the undermentioned route, viz. :—

This Permit will be in force for a period of

commencing on the

(Signed)

Collector (or, &c.)

(Signed)

Collector (or other Ábkári Officer empowered under section 13).

*This will be inserted only if the places between which drugs are to be conveyed are more than 10 miles apart.

FORM G.

Special Permit for transport or removal of Intoxicating Drugs.

No.

Date

Name of Permit-holder

Purpose of removal

Drugs referred to in Permit:

Description.	Quantity.

Route

Duty (*or* fee) paid Rs.

Date up to which Permit will be in force

No.

Date

of

is hereby permitted, subject to the conditions noted on the reverse, to remove from

Description.	Quantity.

to

for the purpose of intoxicating drugs of the descriptions and quantities noted in the margin*by the undermentioned route, viz., Rs. , being the amount of the duty (*or* fee, *as the case may be*) payable on account of the permit, have been paid to the undersigned.

This Permit will be in force only till the evening of the

(Signed)

Collector (or, &c.)

(Signed)

Collector (or other Ábkári Officer empowered under section 13).

* This will be inserted only if the places between which drugs are to be conveyed are more than 10 miles apart.

Note.—Whenever any intoxicating drugs are removed under this Permit, the holder thereof must present the same, together with a receipt from
for the duty prescribed by Government under section 27 of the Bombay Ábkári Act, 1878, on the intoxicating drugs removed, to the undermentioned officers *en route* and obtain their signatures to the certificates beneath this:—

Removal of Drugs.			* Amount of Duty paid.	Signatures in acknowledgment of correctness.		
Date.	Description.	Quantity.		The at	The at	The at

When the period of this Permit expires it must be delivered to

* This will be inserted only if duty is payable.

Note.—When intoxicating drugs are being removed under this Permit, the holder thereof must present the same to the undermentioned officers *en route* and obtain their signatures to the certificates beneath this, and as soon as the intoxicating drugs have been conveyed to their destination deliver this permit to

Date.	Signatures in acknowledgment of correctness.		
	The at	The at	The at

RULINGS BY THE HIGH COURT.

1. *Sections 14, 20, 64, 65, 66 and 67.—Tree—Toddy producing-tree.*—The words "Any tree" in section 14 and "every toddy-producing tree" in section 20 of the Bombay Abkári Act V of 1878, mean all trees in the Bombay Presidency to which the Act applies, from which toddy is drawn or produced, and not merely those in regard to which no special rights of drawing toddy previously existed. *Ardesir Jehangir* v. *The Secretary of State for India*—I. L. R., 6 Bom., 398.

2. *Section 24.—Per* Birdwood, J.—The expression "land revenue" as used in Act X of 1876 does not include either the duties leviable under Regulation XXI of 1827 on the manufacture of spirits, or the taxes on the tapping of toddy trees, the levy of which in certain districts was legalised by section 24 of the Bombay Abkári Act, No. V of 1878. A farmer of duties on the manufacture of spirits is not authorized to levy a duty on any juice in trees, either under Regulation XXI of 1827 or Act X of 1876, or Bombay Act V of 1878. Juice in toddy-producing trees is not spirit, which includes toddy in a fermented, state only. *Narayan Venka Kalgatkar* v. *Sakharam Nago Keregannker*—I. L. R., 9 Bom., 462.

3. *Section 43 and 53.—Possession of distilling materials.*—Mere possession, without a license, of utensils for distilling liquor, is not an offence punishable under section 43 of the Abkári Act (Bombay), No. V of 1878. It is only in cases where such possession is not satisfactorily accounted for that, under section 53, it is to be presumed, until the contrary is proved, that a person in possession of such utensils has committed an offence under section. 43. *Queen Empress* v. *Pestanji Barjoji*—I. L. R., 9 Bom., 456.

4. *Section 43, Cl. F., and 53.—Burden of proof.*—Mere possession of mowra flowers does not constitute an offence under section 43 of the Abkári Act, V of 1878, unless such possession is made out by the prosecution to have been for the purposes of distilling liquor therefrom. Nor is a seller of these flowers criminally responsible for any illicit use of them after they have passed from his control. *In re the petition of Limda Koya*—I. L. R., 9 Bom., 556.

Section 43.—Growing "gánja" without a permit is not an offence under section 43 of the Bombay Act V of 1878. *In re Narayan Soma*—B. H. Ct. Cr. Rgs., 26th April 1883.

Sections 9 and 43.—Carrying without a pass or permit liquor through a British Indian village on the way between two villages in a Native State is punishable under the Act as importing liquor. *I.* v. *Jeria Sukhla*—B. H. Ct. Cr. Rgs., 24th November 1886.

Section 43 (b).—Where accused removed some gánja grown in one of his survey numbers to a threshing floor in his adjoining survey number for the purpose of preparing it, the two survey numbers being practically one field, held that his act was not a removal from one place to another, punishable under section 43 (*b*). *I.* v. *Satwa bin Rama*—B. H. Ct. Rgs., 13th June 1889.

Section 43 (b).—A person holding a pass for tapping toddy trees and carrying toddy to his shop, told his niece to drive a buffalo laden with toddy while he himself searched for his runaway pony. The girl was convicted for transporting toddy without a pass. The conviction was reversed, on the ground that she could not be considered as herself transporting the toddy, as her uncle, who had but momentarily withdrawn, might be deemed as still controlling the buffalo laden with it.—*I.* v. *Nagowa kom Lalapa*—B. H. Ct. Cr. Rgs., 21st October 1886.

Section 43 (c).—Mere cultivation of *ganja* plants is not a process of manufacturing intoxicating drugs within the meaning of section 43 (*c*).—*I.* v. *Dada bin Apaji*—B. H. Ct. Cr. Rgs., 15th November 1888; *I.* v. *Narayan valad Soma, ib.*, 26th April 1883.

Section 43, cl. (g).—A transfer of gánja from one shop to another, both shops belonging to the same licensee, does not constitute a sale punishable under section 43 (*g*). *Mohon valad Vithoba*—B. H. Ct. Cr. Rgs., 1st October 1885.

Section 45 (c).—A licensee required by his license to maintain at his retail shops such minimum stocks of spirits as the Collector should from time to time direct, and on no account to allow the stock to be less than the quantity so fixed, was held properly convicted for breach of his license, on the stock at one shop being found insufficient, on the principle that an act failing to comply with terms legally imposed is illegal in the affirmative as well as in the negative sense. *I.* v. *Pedru bin Saver*—B. H. Ct. Cr. Rgs., 15th February 1887.

Section 45, cl. c, applies only to the "holder of a license" and not to a mere servant of the licensee. *I.* v. *Gaffur valad Adam et al*—B. H. Ct. Cr. Rgs., 6th August 1885, followed in *I.* v. *Gopal Vishram et al*—B. H. Ct. Cr. Rgs., 26th July 1888; *I.* v. *Gopal Vishram*—B. H. Ct. Cr. Rgs., 13th September 1888; *I.* v. *Ramji Raghoji*—B. H. Ct. Cr. Rgs., 15th November 1888.

Section 45, and Section 33, I. P. C.—A licensee for selling bháng and gánja was convicted of breach of his license by omitting to open shops at certain places and to keep accounts. Held that neither omission was an "act" in breach of any condition of his license, section 33 of the

Indian Penal Code having no application to this case. *I.* v. *Nana Mahadev*—B. H. Ct. Cr. Rgs., 11th March 1886.

Section 45 (c).—An accused was convicted of a breach of a license under section 45 (*c*) of the Bombay A'bkári Act, in that he did not establish toddy shops at certain places in the Bijápur Táluka within a certain time. The license did not specify any time for the opening of the shops. Held that the matter was left by the license to subsequent adjustment between the Collector and the contractor, and the conviction was reversed. B. H. Ct. Cr. Rgs., 6th March 1886.

Section 47.—The law does not allow the head of a family to have in his possession, without license, permit, pass or special order, a larger quantity of country liquor than may legally be sold under section 17 merely because he has adults living with him. *I.* v. *Farsu Dumji Damel*—B. H. Ct. Cr. Rgs., 27th May 1886.

Section 47.—Conviction for being in possession without a license, permit or pass of more than a certain quantity of country liquor should cite the authority which under sections 17 and 47 makes such possession illegal; otherwise the conviction is on its face insufficient. *I.* v. *Kana Bulkur*—B. H. Ct. Cr. Rgs., 11th November 1886.

Section 53.—An accused was proved to have in his possession 44 bottles of country liquor much exceeding in strength that which might be sold in the district. He was convicted of offences against sections 43 and 47, and sentenced to imprisonment under section 43 and to fine under section 47. *Held* (1) the presumption intended to be drawn by section 53 of the Act is the presumption of an offence under section 43 or 47 or both according to the facts of each particular case. (2) To make section 43 applicable, there ought to be, beyond mere possession, some affirmative evidence of the facts necessary to constitute an offence under that section, and in the absence of such evidence accused could be convicted only under section 47. *I.* v. *Byramji Kharsedji*—B. H. Ct. Cr. Rgs., 11th July 1889.

Section 55.—A *Magistrate* cannot order *confiscation* under the Bombay A'bkári Act V of 1878, the Collector only being invested with such power. *I.* v. *Baslingapa*—B. H. Ct. Cr. Rgs., 22nd July 1880.

Section 60 does not apply to an appeal by a person convicted by a Magistrate of a breach of a license. Enhancement under section 209, Bombay Land Revenue Code, of a fine imposed under section 56 of the Abkári Act, 1878, was, therefore, illegal. *I.* v. *Miya Saheb valad Mahomed*—B. H. Ct. Cr. Rgs., 15th February 1885.

PART XIV.

EXECUTION OF DEEDS, CONTRACTS, &c., ON BEHALF OF THE SECRETARY OF STATE FOR INDIA.

In exercise of the power conferred by the thirty-third and thirty-fourth of Victoria, Chap. fifty-nine, section two, and of all other powers enabling him in this behalf, the Governor General in Council is pleased, in supersession of all previous Resolutions in this behalf relating to the Presidency of Bombay, to declare that the undermentioned classes of the deeds, contracts, and other instruments, referred to in the twenty-second and twenty-third of Victoria, Chap. forty-one, section two, may be executed as follows in the territories administered by the Governor of Bombay in Council :— (G. R. 3518, J. D., 14th June 1878.)

1. Contracts for the supply of articles of dead stock, or petty supplies.	By the Government officer for whose use such articles or petty supplies are required, or by any Government officer to whom such officer is subordinate.
2. Contracts for the sale of useless articles.	By the Government officer in whose office such useless articles are, or by any Government officer to whom such officer is subordinate.
3. Contracts for lease or sale of Government buildings.	Jointly by the chief local officer of the Department in whose charge, and the chief local officer of the district in which, such buildings are.
4. Contracts for hire or purchase of buildings for Government.	Jointly by the chief local officer of the Department for which, and the chief local officer of the district in which, such buildings are to be hired or purchased.
5. Contracts for petty construction and repairs, and for public works of every description which are not executed by the Public Works Department.	Jointly by the chief local officer of the Department by which, and the chief local officer of the district in which, such works are to be executed or by an Assistant or Deputy Collector, if the work is executed by the Revenue Department.
6. Sanads—	
(*a*) continuing or confirming exemption from payment of land revenue, or (*b*) continuing or confirming any pension or grant of money or land revenue, or (*c*) confirming watan-service-commutation settlements, or (*d*) guaranteeing cash payments in lieu of ábkári or other rights, or	By Collectors of Districts.

(*e*) granted under Bombay Act IV. of 1868, or any other law for the time being in force relating to the survey of towns and cities.	By Collectors of Districts.
7. Deeds, contracts, and instruments relating to land, or to any benefit arising out of land, or to water, or to any benefit arising out of water or to land revenue.	In the City of Bombay by a Secretary to Government, elsewhere by Collectors of Districts or in any business connected with the duties of the Tálukdári Settlement Officer, by that officer.
8. Contracts for the farm of tolls, taxes, duties, cesses or revenues of any description.	By Collectors of Districts or by the heads of the departments by which such tolls, duties, cesses or revenues are levied.
9. Contracts for the erection or repair of boundary marks.	By survey officers, or revenue officers, not lower in rank than mahálkaris.
10. Contracts for the supply of stationery, &c., to the Superintendent of Stationery.	By the Superintendent of Stationery, Bombay.
11. Contracts for the supply of articles of any description for the use of jails, or regarding the sale of articles manufactured in jails.	By the Inspector General of Jails, Bombay, or by Superintendents of Jails.
12. Contracts for the supply of articles procured in the local markets for the Police.	By the Commissioner of Police in the City of Bombay, and elsewhere by Police Commissioners, or by District Superintendents of Police.
13. Contracts connected with the management of the Botanical Gardens at Ganesh Khind.	By the Superintendent.
14*. Deeds, contracts, and instruments relating to Government forests or to forest produce, or to the business of the Forest Department, or to any land, buildings or other property in the control of that Department other than contracts of the nature specified above in articles 1 to 5.	By Conservators of Forests.
15. Deeds, contracts, and instruments relating to salt revenue or to the business of the Salt Department, or to the land, buildings or other property in the control of that Department, other than contracts of the nature specified above in articles 1 to 5.	In Sind, by the Commissioner in Sind, or by the head of the Salt Department in that Province, or by Collectors of Districts, and elsewhere by a Secretary to Government, or by the Collector of Salt Revenue, Bombay.
16. Contracts entered into with normal scholars and apprentices in Engineering or Industrial Colleges, &c.	By Educational Inspectors or by the Principals of such Colleges.

* With regard to contracts and other instruments, in matters connected with the administration of forests and with the business of the Forest Department *vide* Appendices A and B.

17. Contracts for public works executed by the Public Works Department.	By Executive Engineers of Divisions subject to the conditions prescribed by the Public Works Department.
18. Contracts relating to the Indian Troop Service.	By the Resident Transport Officer, Bombay.
19. Contracts for the supply of articles procured in the local markets for the Ordnance Department.	By Commissaries of Ordnance, Deputy Commissaries of Ordnance, Deputy Assistant Commissaries of Ordnance and Superintendents of Factories.
20. Contracts relating to the business of the Commissariat Department.	By Executive Commissariat Officers.
21. Contracts for the supply of articles procured in the local markets for hospitals, lunatic asylums, &c.	By the local Medical Officers in charge of such hospitals, asylums, &c.
22. Deeds, contracts, and instruments relating to the Administration of Aden.	The Political Resident, Aden.
23. Deeds, contracts, and instruments not included in any of the foregoing articles:	In Sind, by the Commissioner in Sind, and elsewhere by a Secretary to Government.

Nothing herein contained shall be deemed to affect any enactment for the time being in force which expressly prescribes by whom any such deed, contract, or other instrument as is herein mentioned, shall be executed.

Restrictions on the powers of Local Governments an Administrations to enter into contracts involving liabilities on the State.

The Government of India having had under consideration certain cases in which agreements have been made with private persons or mercantile firms, which have resulted in loss or inconvenience to the State, has prescribed the following rules for the guidance of Local Governments and Administrations :—

I.—In those cases where it is considered expedient to grant concessions or to make agreements which create any exclusive privilege or impose any corresponding obligation upon the Government, the deed of concession, or the agreement, if the rights under it are transferable, must be so framed that it will be beyond the power of the persons with whom the agreement is made to transfer their rights, or a part of them, without the sanction of the Government.

II.—Whenever it is considered that the circumstances are such that it may be expedient that the property or rights should be placed in the hands of a joint stock company, the circumstances must be reported to the Government of India before the agreement is concluded or the concession finally made.

III.—All contracts, agreements or concessions creating any exclusive privilege or imposing an corresponding obligation upon the

Government which have a currency of more than five years must be forwarded before execution for the approval of the Government of India, unless powers have been unconditionally reserved to Government in the contract to terminate it on giving notice of such intention.

IV.—Agreements with private persons, firms, or companies, under which a Local Government undertakes to execute works or perform services for them which involve expenditure from Government funds to the extent of a lákh of rupees altogether, or of a yearly sum of Rs. 5,000, or the cession of Government property valued at a lákh of rupees, should be submitted to the Government of India for approval.

V.—Contracts or agreements which fall under the terms of clause III will be subject to any special provision made by Government to meet particular cases, or particular classes of cases, in which a strict application of that clause would be unadvisable.

VI.—When agreements of the class referred to in this Resolution are executed by a Local Government, their terms should be considered in the Judicial Department and by the highest legal adviser to that Government, and they should be executed by the Secretary to the Local Government in the Judicial Department (Government Resolution No. 3491, 20th November 1888. Financial Department.)

APPENDIX A.

No. 607.

REVENUE DEPARTMENT.

Bombay Castle, 4th February 1879.

The following Resolution by the Government of India is republished :—

"GOVERNMENT OF INDIA.—HOME DEPARTMENT.

Execution of Deeds, Contracts, &c., on behalf of the Secretary of State by the Officers of the Forest Department.

Extract from the proceedings of the Government of India in the Home Department, Judicial,—No. 23—1411, under date Simla, the 15th October 1878.

Read again the following Resolutions on the subject of the execution of deeds, contracts, &c., on behalf of the Secretary of State :—

Home Department Resolution No. 989, dated the 23rd June 1877.
" " " No. 684, dated the 31st May 1878.
" " No. 991, dated the 3rd August 1878.

Read also the following letters relating to the execution of deeds, contracts, &c., by Forest Officers :—

From Government of Madras, No. 343, dated the 4th March 1878.
" " of Bombay, No. 2313, dated the 4th May 1878.
" " of Bengal, No. 397 T, dated the 10th May 1878.
" " of N. W. P. and Oudh, No. 110A, dated the 28th May 1878.
" " of Punjab, No. 449 C. dated the 3rd August 1878.
" Chief Commissioner of Central Provinces, No. $\frac{3062}{120}$, dated the 2nd August 1878.
" " of British Burma, No. $\frac{207}{76}$, dated the 29th March 1878.
" " of Mysore, No. $\frac{536}{64}$, dated the 20th May 1878.
" " of Assam, No. 760, dated the 14th March 1878.
" " of Ajmere, No. 1141 S, dated the 23rd May 1878.
" Resident at Hyderabad, No. 5 B, dated the 29th April 1878.

RESOLUTIONS.

In exercise of the power conferred by the thirty-third and thirty-fourth of Victoria, cap. fifty-nine, section two, the Governor General in Council is pleased to declare that the undermentioned classes of the deeds, contracts, and other instruments, referred to in the twenty-second and twenty-third of Victoria, cap. forty-one, section two, may be executed as follows :—

Contracts and other instruments in matters connected with the administration of forest and with the business of the Forest Department generally.	By Conservators, Deputy, Assistant and Sub-Assistant Conservators of Forests to such extent, and within such limits as the Local Government may prescribe by Notification in the Official Gazette.

ORDER.—Ordered, that this Resolution be communicated to the Local Governments and Administrations noted above, and to the Department of Revenue, Agriculture and Commerce, for information and for the issue of any further orders which may be necessary.

Ordered, also, that this Resolution, together with the Statutes referred to in it, be published in the Supplement to the *Gazette of India*.

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33 & 34 VICTORIA, CAP. 59.

An Act to render valid certain contracts informally executed in India.

[9th August 1870.]

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India," it was provided that any deed, contract, or other instrument made by the authorities therein named, for the purpose of disposing of real and personal estate in India vested in Her Majesty under the said last-mentioned Act, or of raising money on such real estate by way of mortgage, or of making proper assurance for that purpose, or of purchasing and acquiring any lands and hereditaments, or any interest therein, stores, goods, chattles and other property in India, and of entering into any contracts whatsoever for the purposes of the said first-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort St. George or of Bombay in Council : 22 & 23 Vic., c. 41.

And whereas by an Act passed in the thirty-second and thirty-third years of Her said Majesty, it was recited that certain deeds had been issued for inám lands in the Presidency of Fort Saint George by the Inám Commissioner in the execution of his office in that respect, which, by reason of certain defects in the expression of the execution thereof, it was apprehended might be invalid; and provision was thereupon made by the said last-mentioned Act that the said title-deeds should not be deemed invalid by reason of such defects :

And whereas it is apprehended that other deeds, contracts, and instruments made for the purpose expressed in the said first-recited Act, besides such title-deeds as aforesaid, may be invalid or deemed invalid for the like reason, and such provision as aforesaid should therefore be made more general :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Deeds, contracts, and instruments executed in India valid, notwithstanding certain defects of execution.

1. Every deed, contract, or other instrument made in India for the purposes and by the authorities expressed in the said first-recited Act up to the date of the passing of this Act, and for any further period within the limit of one year to which the Governor General in Council may deem it advisable to extend the operation of this Act, which is expressed to be executed by or by order of or on behalf of the Governor General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council, or by any Lieutenant-Governor or Chief Commissioner, or any other officer for the time being entrusted with the government, charge, or care of any presidency, province or district of British India within the limits of their respective governments, provinces, or districts, and every deed, contract, or other instrument so executed in British India by any person authorised in this behalf by the Secretary of State for India in Council, shall be, and be deemed to have been as valid as if it had been executed in conformity with the provisions of the said first-recited Act ; provided that such deed, contract, or other instrument has been in other respects duly executed according to the law in force at the date of its execution.

Power to authorities in India to vary forms of execution.

2. It shall be lawful for the Governor General, by Resolution in Council, from time to time to vary the form of the execution prescribed by the said first-recited Act for the deeds, contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction ; and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects, the like validity as if they had been executed according to the provisions of the said first-recited Act.

[22° AND 23° VICT.] [CH. 41.]

GOVERNMENT OF INDIA ACT AMENDMENT.

CHAP. 41.

An Act to amend the Act for the better Government of India.

[13th August 1859.]

WHEREAS an Act was passed in the Session holden in the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, intituled *An Act for the better Government of* India ; And whereas it has been considered that, under the Enactment in the Fortieth section of the said Act, the local Governments in *India* and Officers intrusted with the Charge of Provinces or Districts there respectively cannot enter into and execute such Contracts and Assurances in *India* on behalf of the Secretary of State in Council as before the Commencement of the said Act they were respectively competent to enter into and execute on behalf of the *East India* Company, and it is expedient to give them such Powers: And whereas Doubts have arisen as to the proper Mode of the Execution of Contracts entered into by the Secretary of State in Council pursuant to the Provisions of the said Fortieth section of the said Act, and it is expedient that such Doubts should be removed: And whereas it is expedient to alter so much of the Enactment in the Forty-third section of the said Act as relates to the Mode of signing and countersigning the Drafts or Orders therein mentioned : Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; that is to say,

Powers to execute Contracts vested in Government of India.

I. The Governor General of *India* in Council, the Governor in Council of *Fort St. George*, the Governor in Council of *Bombay*, the Lieutenant-Governor of the North-Western Provinces now under the Presidency of *Fort William* in *Bengal*, respectively, or any Officer for the Time being intrusted with the Government, Charge or Care of any Presidency, Province, or District in *India*, subject to such Provisions or Restrictions as the Secretary of State in Council, with the Concurrence of a Majority of Votes at a Meeting, shall from Time to Time prescribe, are hereby respectively empowered to sell and dispose of all Real and Personal Estate whatsoever in *India* for the Time being vested in Her Majesty under the said Act, within the Limits of their respective Governments, Provinces, or Districts, or to raise Money on any such Real Estate by way of Mortgage and to make proper Assurances for that Purpose, and to purchase and acquire any Land or Hereditaments, or any Interest therein, Stores, Goods, Chattels, and other Property in *India*, within the said respective Limits, and to enter into any Contracts whatsoever, within the said respective Limits for the Purposes of the said Act, and all Property so acquired shall vest in Her Majesty for the Service of the Government of *India*.

II. The Secretary of State in Council may be named as a party to any such Deed, Contract, or other Instrument, and it shall be sufficient to use the Designation of Secretary of State in Council in such Deed, Contract, or other Instrument, and the same may be expressed to be executed on behalf of the Secretary of State in Council, by or by Order of the Governor General in Council, Governor in Council, Lieutenant-Governor of the North-Western Provinces, or order Officer intrusted as aforesaid, but may be executed in other respects in like Manner as other Instruments executed by or on behalf of him or them respectively in his or their official Capacity, and may be enforced by or against the Secretary of State in Council for the Time being; and neither the Secretary of State, nor any Member of the Council, nor any Person executing such Deed, Contract, or other Instrument, shall be personally liable in respect thereof; and all Liabilities, Costs, and Damages in respect thereof shall be satisfied and paid out of the Revenues of *India*.

Mode of executing Contracts in India.

Secretary of State and Council not to be personally liable.

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APPENDIX D.

No. 608.

REVENUE DEPARTMENT.

Bombay Castle, 4th February 1879.

With reference to the Resolution of His Excellency the Governor General in Council No. 23-1411, dated 15th October 1878, republished by the preceding Notification No. 607 of to-day's date, His Excellency the Governor in Council is pleased to notify that contracts and other instruments in matters connected with the administration of forests and with the business of the Forest Department in the Bombay Presidency generally may be executed within the limits of their respective charges, by— (*B. G. G.*, 1879, p. 94.)

(1) Conservators, whatever be the amount or value of the subject-matter of the contract or other instrument;

(2) Deputy Conservators, if such amount or value do not exceed Rs. 5000;

(3) Assistant Conservators, if such amount or value do not exceed Rs. 1,000;

(4) Sub-Assistant Conservators, if such amount or value do not exceed Rs. 200;

Provided always that no Forest Officer of any grade below that of Conservator shall execute any contract or other instrument without, or otherwise than in accordance with, the previous sanction of the Conservator to whom he is subordinate, given either expressly or generally in connection with the sanctioned working plan of a season, and that every contract or other iustrument executed by any such officer shall be drawn in a form which has been approved by the said Conservator.

PART XV.

RULES UNDER SECTION 320* OF THE CIVIL PROCEDURE CODE XVI OF 1882, AS AMENDED BY SECTION 30 OF VII OF 1888.

24th May 1880.

In supersession of so much of Government Notification No. 7320 of 16th December 1878 (published at page 839 of the *Bombay Government Gazette* for 1878) as has not been already superseded by Government Notification No. 499 of 24th January 1880 (published at page 96 of the *Bombay Government Gazette* of 1880), and in exercise of the power conferred by section 320 of the Code of Civil Procedure, the Governor of Bombay in Council is pleased, with the previous sanction of the Governor General in Council, to declare:—

1.—That in the Districts of Poona, Sholápur, Ahmednagar and Sátára the execution of decrees ordering the sale of any immoveable property belonging to a person who is an agriculturist within the meaning of the Deccan Agriculturists' Relief Act, 1879, which has been specially mortgaged for the repayment of the debt to which any such decree relates, shall be transferred to the Collector: Provided that nothing herein contained, shall be deemed to affect the execution of decrees already legally transferred to the Collector under the Notification hereby superseded. (No. 3600, *B. G.G.*, 1880, Pt. I., p. 519.)

2.—That in the Districts of Poona, Sholápur, Ahmednagar and Sátára decrees for money passed prior to the first of November 1879 in execution of which a court has ordered the sale of any immoveable property belonging to any person who is an agriculturist within the meaning of the Deccan Agriculturists' Relief Act, 1879 (as amended by Act XXIII of 1881), shall be transferred for execution to the Collector. (No. 4520, *B. G. G.*, 1882, Pt. I., p. 557.)

3.—that in the Districts of Násik, Khándesh, Kaládgi, Ahmedabad, Kaira, Surat and Broach the execution of decrees shall, in the following cases, be transferred to the Collector, (*viz.*):—

(1) Decrees for money in execution of which a Court has ordered the sale of immoveable property belonging to any person who earns his livelihood, either wholly or principally by agriculture.

(2) Decrees ordering the sale of immoveable property belonging to any such person in pursuance of a contract specifically affecting the same.

4.—that in the Districts of Ahmedabad, Kaira and Broach the execution of decrees in cases in which a Civil Court has ordered the sale of any immoveable property belonging to a Tálukdár, Thákur, Jaghírdár or Kasbati, and of decrees ordering the sale of any such property, shall be transferred to the Collector. (No. 1771, *B. G. G.*, 1881, Pt. I., p. 140.)

* The Notification of Government made under section 320 is not applicable to the Courts of Jághirdárs who have power under Regulation XIII of 1830 to execute their own decrees. (*Vide* notification at page 557, *Bombay Government Gazette, 1882.*)

24th January 1880.

In all cases in which, under the provisions of paragraph 1 of section 320 of the Code of Civil Procedure, the execution of certain decrees has been, or may hereafter be, transferred to the Collector, the Governor in Council is pleased, in exercise of the powers conferred by paragraph 2 of the aforesaid section, and in supersession of the Rules published under date the 16th December 1878, to prescribe the following rules for the transmission of such decrees from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the said decrees from the Collector to the Court, namely :—

(No. 499, *B. G. G.*, 1880, Pt. I., pp. 96 and 99.)

1. If the Court shall be satisfied that the decree is one to which this notification applies, it shall cause a copy thereof to be forwarded to the Collector by post, or in such other manner as shall be most convenient.

2. Along with the said copy the Court shall send—

(*a*) A copy of the judgment, if any, of the Court which passed the decree;

(*b*) If the decree is that of an Appellate Court, a copy of the judgment of the Court which tried the suit originally, and, when there has been a special or second appeal, of the judgment of the first Appellate Court.;

(*c*) A statement showing the extent, if any, to which the decree has been already executed, and clearly setting forth what portion of the decree still remains to be satisfied ;

(*d*) A copy of the application for execution of the decree and of the order, if any, made thereon for sale.

3. The aforesaid documents shall be prepared and transmitted to the Collector, free of all cost to the parties ; the copies, &c., being prepared by the Court's establishment.

4. On receipt of the decree and of the other documents mentioned in Rule 2, the Collector may either proceed to execute it himself, or may refer it for execution, subject to his supervision and control, to any of his subordinates not lower in rank than a Mahálkari.

5. The Collector, or the officer to whom the Collector so refers the decree shall, without delay, appoint a day for hearing any representations which the parties or any of them may desire to make, as to the manner in which the decree should be executed, and shall cause a written notice to be served on each of the parties to the decree of the day so fixed, and shall also require the judgment-debtor to produce all title-deeds and other documents affecting the property in question which may be in his possession or power ; and shall, after such enquiry as he considers necessary, proceed according to the methods prescribed by section 321 to 325 C. of the Civil Procedure Code, as may be appropriate to the nature of the case.

6. The Collector or other officer aforesaid may, from time to time, by similar written notices, require the attendance of the parties to the decree, or any of them, for the purpose of ascertaining their wishes or of obtaining any information which he may consider necessary to enable him to provide satisfactorily for the execution of the decree; and if any party does not attend, in pursuance of any such notice, the Collector or other officer aforesaid shall decide the matter in his absence, and he shall not afterwards be entitled to be heard with respect thereto.

7. Every such notice, and every notice which the Collector shall issue under section 324 of the Code of Civil Procedure to the judgment-debtor or his representative, may be served in the manner prescribed by section 191 of the Bombay Land Revenue Code or by forwarding the same to the Court to be served upon the pleader, if any, of the party to whom such notice is addressed. Every other notice issued under these rules shall be served in the manner prescribed in section 191 of the Bombay Land Revenue Code. (Notn. 3132, B. G. G., 1883, Pt. I., p. 358.)

8. All orders which the Collector or other officer aforesaid shall pass in respect of the execution of the decree, or of the management or sale of the immoveable* property of the judgment-debtor, shall be made in writing, and shall be dated and signed by him; and a diary of his proceedings shall be kept in the language of the district, in the Form B. at page 148 of the Circulars of the High Court of Bombay.

9. Previous to proceeding to sell any property, the Collector or other officer aforesaid shall, unless he has already proceeded under section 322A. or 322C., publish a notice in the language of the district calling upon all persons having rights in, or charges or claims on, the said property, or any part thereof, to submit on or before a date which shall be named in such notice, and which shall not be less than six weeks after the date of such notice, a statement of the right, charge or interest claimed, and to produce the documents, if any, on which such claims are based.

Such notice shall be published in the manner prescribed for the notice to be issued by the Collector under section 322A. of the Code of Civil Procedure. (Notn. 3132, B. G. G., 1883, Pt. I., p. 358.)

10. If, in the opinion of the Collector or other officer aforesaid, any statement so produced is not sufficiently precise or clear; or if it shall appear to the Collector or such other officer that all the documents in the claimant's possession or power relating

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* RESOLUTION.—The sale of what is in the mofussil called the equity of redemption of mortgaged property, is really a sale of the property burdened with a certain debt. The latter circumstance does not make it, it seems to the Governor in Council, less a sale of the property, and the rules already issued provide for execution of decrees ordering a sale of immoveable property by the Collectors. (G. R. No. 1668, J. D., 25th March 1890.)

to the property to be sold have not been produced, he may refuse to receive such statement, and may give or may not give, as he deems fit, time for the production of a fresh statement.

The Collector or other officer aforesaid shall peruse the documents of title which any such claimant produces ; but such documents shall not, without a special order, the reasons for which must be recorded, be handed for perusal to any other person than the Collector or other officer aforesaid, and his clerk, reader or interpreter: and they shall, after such perusal, be restored to the persons who have produced them with an endorsement signed by the Collector or other officer aforesaid on each of the date on which and the purpose for which they were presented and of the date of return and of the person to whom they are returned.

(Notn. 3132, *B.G.G.*, 1883, Pt. I., p. 358;) (Notn. 6437, *B.G.G.*, 1883, p. 695.)

11. Every sale of property shall be held before the Collector or other officer aforesaid or before any Revenue officer not lower in rank than a Mahálkari's first Kárkún specially nominated by the Collector or other officer aforesaid in this behalf.

Except as is otherwise provided by the Code of Civil Procedure, every such sale shall be proclaimed* and held in the manner prescribed by the rules for the time being in force relating to the sale of immoveable property in realization of arrears of land revenue.

Every proclamation of any such sale shall contain, in addition to the particulars required by the said rules :—

(*a*) A list of all claims of which statements have been drawn up under section 322B. or section 322C., or have been duly submitted and accepted by the Collector or other officer aforesaid under No. 10 of these Rules, and which shall appear to the Collector or such other officer to be *primâ facie* honest and reasonable.

(*b*) A caution that no guarantee is given either of the judgment-debtor's title or of the validity of any of the rights, charges or interest claimed by third parties.

12. The Collector or other officer aforesaid shall retain the title-deeds and other documents produced by the judgment-debtor under Rule 5 ; and, if the whole of the property to which they relate is sold, shall hand them over to the purchaser.

(Notn. 3280, *B.G.G.*, 1885, Pt. I, p. 631; see also Notn. No. 2890, *B. G. G.*, 1890, Pt. I., p. 510.)

12A. No holder of a decree in execution of which property is sold shall, without the express permission of the Collector or other officer aforesaid, bid for or purchase the property.

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*The form of proclamation is given in the Appendix to this Part.

13. When any sale has been finally completed, the Collector or other officer aforesaid shall give to the purchaser a certificate of sale, as nearly as may be, in the Form No. 150 of Schedule IV. of the Code of Civil Procedure.

14. When the property sold is in the occupancy of the judgment-debtor, or of any other person, and a certificate in respect thereof has been granted under the last preceding Rule, the Collector or other officer aforesaid shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property; by proclaiming to the occupant by beat of drum, or in such other manner as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser; and, if need be, by removing any person who refuses to vacate the same.

15. When execution of the decree has been, as far as possible, completed, and the balance, if any, of all monies which have come to his hands, disposed of in accordance with the provisions of section 324A. of the Code of Civil Procedure, the Collector shall re-transmit the papers received by him under Rules 1 and 2, together with the execution proceedings, to the Court by post, or in such other manner as shall be most convenient.

16. The following powers are conferrred on Collectors or such of their gazetted subordinates to whom a decree has or may hereafter be referred under Rule 4:— (Notn. No. 92, *B. G. G.*, 1890, Pt. I., pp. 38 and 39.)

(1) The power referred to in section 294 of the Code of Civil Procedure to grant express permission to the holder of a decree, in execution of which property is sold, to bid for or purchase the property: Provided that the Collector or other officer aforesaid, to whom an application for such permission may be made, shall not grant such permission unless the decree-holder—

(*a*) satisfies him that the application is made in good faith, and that the judgment-debtor is not a minor;

(*b*) undertakes that he will not himself or through any other person bid or purchase for a sum less than such amount as the Collector or other officer granting the permission, having regard to the fair market value of the interest to be sold, may determine, and that the permission shall be subject to this condition;

(*c*) agrees that if the decree-holder or any one on his behalf becomes the purchaser, the purchase-money shall be paid to the Collector or other officer executing the decree.

(2) The power referred to in paragraph 1 of Section 312, Civil Procedure Code, to pass

an order confirming a sale if no application to set the sale aside has been made within the time limited by law,* or if every application so made has been disallowed.

* *Viz.* 30 days from the date of the sale, Art. 166, XV, 1887.

17. If any application to set aside a sale be made within the time limited by law to the Collector or other officer aforesaid, he shall refer the applicant to the Civil Court.

The arrangement in Rules 16 and 17 is provisional pending a reconsideration of the whole subject of execution of decrees by Collectors. (G. R., J. D., No. 91, 8th January 1890.)

ADDITIONAL ORDERS, &c.

1. As the law stands, no fees for the service and execution of processes, issued by the Collector in the exercise of powers under section 320 of the Civil Procedure Code, are leviable. (G. R. 1619, J. D., of 11th March 1881.)

Rules for the guidance of Collectors in accepting or declining appointments as receivers under Section 504, Civil Procedure Code.

"1. Collectors shall only consent to act as Receivers under section 504 of the Civil Procedure Code in as many cases as they are from time to time of opinion they or, subject to their supervision, their subordinates can properly attend to, and shall exercise their discretion as to what cases they shall consent to act in. (Notn. No. 3913, *B. G. G.*, 1883, Pt. I, p. 386.)

"2. They should decline to act in any case in which previous to their appointment they have not been consulted by the District Court as to their willingness to act.

"3. They should decline to act in every case in which, after inquiry, they find—

(*a*) that the estate is of insignificant value; or

(*b*) that if they accept the office, no sufficient provision will remain for the support of the judgment-debtor and his family during the management; or

(*c*) that owing to the property being an undivided share, or for any such reason, the management will probably be attended with litigation or serious complications and difficulties of which it would be unreasonable to throw the burden upon the officers available for the management;

(*d*) that a more satisfactory method of dealing with the case would be for the Court to transfer execution of the decree under section 320 of the Civil Procedure Code, if that section is applicable; or

(*e*) that the case is one to which the provisions of section 326 of the Code ought to be applied and to which they propose to apply those provisions.

"4. They should accept the office as a rule when the judgment-debtor is a person of rank and position, or the descendant of such a person, and there is reasonable hope of the management of his attached estate conducing to his advantage and the judgment-creditor consents to a reasonable allowance being made out of the proceeds for the maintenance of such judgment-debtor and his family during the management if he has no other sufficient means of support."

APPENDIX.

FORM OF PROCLAMATION.

(Under Rule 11.)

Whereas the property of , hereinunder specified, has been attached on account of a decree obtained in original suit No. of 189 , in the Court of , at plaintiff, defendant, in virtue whereof a sum of was adjudged to be payable by the said to the plaintiff;

and whereas it is necessary to recover the said amount by sale of the said property together with all lawful charges and expenses resulting from the said attachment and sale:

Notice is hereby given that on the day of 189 at o'clock A.M., A.B., the Mámlatdár of (or other person appointed) will, at in Táluka in this District, sell by auction to the highest bidder and without reserve, the right, title and interest of the said in the property hereinunder specified, and every power of disposing of the same or any of them or of the profits arising therefrom which the said may now consistently with the law exercise for his own benefit.

Immoveable Property.

1	2	3	4	5	6	7	8	9
Lot Number.	Description of Lot, including local situation, supposed or estimated rent or annual value, and, if leased, for how long, on what terms, and to whom.	Survey Number, Municipal Number and other fiscal designation.	Government Revenue, including any Local Cess, any other known fiscal charge resting on the Lot.	Present occupant.	(Here enter any other particulars the Collector may see fit.)			Here enter the additional particulars required in Rule 11 (*a*).

N. B.—No guarantee is given of the title of the said or of the validity of any of the rights, charges or interest claimed by third parties

Collector.

FORMS FOR THE USE OF COLLECTORS AND THEIR SUBORDINATES UNDER THE RULES PRESCRIBED IN GOVERNMENT NOTIFICATION No. 499 OF 24TH JANUARY 1880, SANCTIONED IN GOVERNMENT RESOLUTION No. 1767, DATED 16TH MARCH 1881, JUDICIAL DEPARTMENT.

1. Notice to be served on the parties to a decree under Rule 5 :—

In the Court of at

Civil Suit No. of 189

A. B.

against

C. D.

Claim Rs.

A. B. (or C. D.) resident of
in the
Táluka of the District.

Whereas the execution of the decree passed by the Court in the above suit on the day of 189 has been transferred by the Court to the Collector of *by whom the same has been referred to me

* This must be varied if the Collector himself executes the decree and issues the notice.

You are hereby informed that I have appointed day the day of 189 at o'clock of the noon for hearing in my office (or camp) at in the táluka of the district any representations which the parties, or any of them, may desire to make to me as to the manner in which the said decree should be executed.

†And you are hereby required to produce before me at the abovenamed time and place all title-deeds and other documents in your possession or power affecting the below-mentioned property which is ordered by the said decree to be sold or which the Court has ordered to be sold in execution of the said decree, *or otherwise as the case may be.*

† This provision is to be added only when the notice is to be served upon the judgment-debtor.

Details of property above referred to.

Dated this day of 189 .

(Signed)

Designation of Officer.

Seal (if the officer issuing the notice has an official seal).

2. Notice issuable to the parties to a decree at any time under Rule 6 :—

In the Court of at

Civil Suit No. of 189 .

A. B.

against

C. D

Claim Rs.

To

A. B. (C. D.) resident of
in the Táluka of the District.

Whereas the execution of the decree passed by the Court in the above suit on the day of 189 has been transferred by the Court to the Collector of by *whom the same has been referred to me,

* This must be varied if the Collector himself executes the decree and issues the notice.

You are hereby required to attend before me on day the day of 189 at o'clock of the noon at my office (or camp) at in the táluka of the district for the purpose of

If you to fail to attend at the abovenamed time and place in pursuance of this notice, the abovementioned matter will be decided upon in your absence, and you will not afterwards be entitled to be heard with respect thereto.

Dated this day of 189 .

(Signed)

Designation of Officer.

Seal (if the officer issuing the notice has an official seal.)

3. *Public notice to be issued under Rule 9 :—*

In the Court of at

Civil Suit No. of 189 .

A. B.

against

C. D.

Claim Rs.

The property specified in the schedule hereunto annexed having been attached in execution of the decree passed in the above suit, notice is hereby given to all persons having rights in or charges or claims on the said property in any part thereof, that they should on or before day the day of 189 , submit to the undersigned by whom the said decree is being executed, at his office (or camp) at in the táluka of the district a statement of the right, charge or interest which they respectively claim, and produce the documents, if any, on which they base their claims.

Schedule.

Dated this day of 189 .

(Signed)

Designation of Officer.

Seal (if the officer issuing the notice has an official seal).

Notes of Rulings.

Decree-holder purchasing not allowed set off if other judgment creditors.

It has been held that where there are competing decree-holders who have applied for execution of their decrees, section 294 of the Civil Procedure Code (Act X of 1877) must be taken as subject to the provisions of section 295, so that the decree-holder, who has been permitted under the former section to purchase the property in execution of his own decree, must share the proceeds of the sale rateably with such competing decree-holders, and will not be allowed to set off the purchase money against the amount due to him on his decree. I. L. R., 6 B., 571.)

The relation of the Collector executing the decree to the Court was previous to section 30 of Act VII of 1888, empowering the Local Government to confer certain judicial powers, defined as follows :—

Collector's functions not judicial.

Per West, J. :—The Collector, like the Názir in India, is a ministerial officer when he executes a decree. He, like the Názir, must carry out the decree of a Civil Court in general subjection to the judicial direction of the Court on whose authority the coercive power exercised by him rests and which alone can deal judicially with the questions that arise in execution. His proceedings and orders are subject accordingly to revision and correction on the application of a party aggrieved, whenever he misconceives the decree or acts illegally in giving effect to it. He is limited strictly to the precise line of activity laid down for him in the Code and the orders under it; and in cases of error or doubt it is the Court that must determine whether he, as its ministerial officer, has or has not transgressed his powers.

Per Birdwood, J. :—A sale made by a Collector under Chapter XIX of the Civil Procedure Code is subject to confirmation by the Civil Court under section 312. As soon as the Collector has exercised or performed the powers or duties conferred or imposed upon him by sections 321 to 325 of the Code, he is *functus officio*. If he has sold the property or re-sold it under the power given by Clause (*c*) of section 325, he has completed the execution of the decree so far as he can legally complete it, and it is then his duty to retransmit the decree to the Court, under rules prescribed in that behalf by Government under the second paragraph of section 320. Where the property has been sold or resold, the sale or resale cannot be set aside by the Collector. Any application for setting it aside must be made to the Civil Court under section 311, and dealt with by it under section 312, and if no application is made to the Court, the sale must be confirmed by it under that section.

Therefore when a Mámlatdár had put up immoveable property for sale and the sale had been confirmed by the Mámlatdár with the sanction of the Collector, and the auction purchaser had applied to the Collector for a certificate of sale which the Collector had refused, it was held that the Subordinate Judge who transferred the decree to the Collector for execution had jurisdiction to deal with an application against the refusal of the Collector to grant certificate and could revise the Collector's proceedings.

Collector cannot set sale aside after confirmation,

Held also, the Collector having through his subordinate put up for sale the judgment debtor's property and confirmed the sale had completely executed the decree so far as he could and was so far *functus officio*. His duty was to make a return to the Court of what he had done. After confirmation of the sale he could not set it aside. (I. L. R., 11 B., 478.)

(It would seem that when the powers of a Court under section 312, Civil Procedure Code, have not been conferred on the Collector under section 320 as amended by section 30 of VII of 1888, his position would still be as described in the above ruling).

or order payment by instalments if decree is for sale of property mortgaged,

A Collector, to whom a decree for sale of mortgaged property has been transferred for execution under section 320 of the Civil Procedure Code, is limited to one of the three course specified in section 321, and may not depart from them; much less may he do what the Court itself could not do in such a case, allow payment of the debt to be made by instalments.

delegates at his own risk.

A Collector, to whom decree has been so transferred for execution, acts ministerially and, when he delegates his functions to an assistant or Mámlatdár, incurs a risk of having to answer in damages to the person who is by any error or mistake deprived of the fruits of his judgment; and this risk attaches independently of malice or negligence. (I. L. R., 7 B., 332.)

The following will also apply when judicial powers have not been conferred on the Collector under section 320 as amended by section 30 of VII of 1888.

Court's powers in respect of decree transferred.

The Court that has made a decree or judicial order, which has been transmitted to the Collector for execution, is not deprived of the judicial powers with respect to it which may still at any particular time be competent to such Court, and which it would have had had the order been placed in the hands of its own ordinary officer, the Názir. In the exercise of such powers the Court has authority to re-call its own record transmitted to the Collector. (I. L. R., 7 B., 332.)

A ruling of the Allahabad High Court (I. L. R., 5 All., 315) seems to be somewhat in conflict with the above, but it should be remembered that the Collectors are bound to follow the decrees of the Court to which they are subordinate and are not at liberty to adopt a contrary opinion expressed by another High Court. (I. L. R., 10 C., 82.)

PART XVI.

RULES REGARDING THE REMUNERATION AND DUTIES OF THE LAW OFFICERS OF GOVERNMENT ISSUED IN SUPERSESSION OF ALL EXISTING RULES AND ORDERS ON THE SAME SUBJECT.*

July 1893.

The following Rules for the conduct of the legal affairs of Government include the Rules published with Notification No. 5756, *Bombay Government Gazette*, 1882, Part I, pages 740 to 746, in cancellation of those published with Notification No. 6452*B* of 9th November 1878, and also include all amendments thereof, up to date, as prescribed by the Governor in Council for observance, the Notifications with which the various amendments were published being specified in the margins of the Rules amended :—

I.—The Advocate General.

1. The salary of the Advocate General is Rs. 2,000 per month in addition to an office allowance of Rs. 200 per month.

Salary.

2. The Advocate General is the chief legal adviser of Government. He is bound to give his opinion in any matter upon which the Government may think fit to consult him, (*a*) including projects of legislation. He is not responsible for the correct preparation of the drafts of Bills, but when called on to advise upon Bills which are under the consideration of Government, it is his duty to indicate any defects he may detect in the drafting thereof and to suggest such modifications as he may deem necessary therein, as well as to advise generally upon the proposed measures. (*a*)†

Duties as adviser of Government ;

3. The Commander-in-Chief, the Judge Advocate General of the Army, and, subject to the provisions of Rule 16, all Heads of Departments at the Presidency,

And as adviser of the chief officers of Government.

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* The rules under this part are extended to Sind in a form adapted to that Province from 1st January 1883—*vide* Government Notification No. 6849, dated 2nd November 1882, Judicial Department, *B. G. G.*, 1882, Pt. I., pp. 946 to 961. The modifications are indicated in the foot-notes.

Notifications modifying the rules for Sind.

No.	*B. G. G.* years.	Pages.	No. of rules modified.
436	1883	75 to 77	37 to 55
2180	1883	271	48
796	1884	73	40 and 42
7476	1885	1262	43 and 53
1391	1886	217	31
2115	1887	294 and 295	49
2976	1887	452	43
4227	1888	658	48
1572	1890	254	49
5936	1890	1092	49
6806	1891	1039	30
5949	1892	1071	45
1950	1893	312	45

† The words from (*a*) to (*a*) shown in Rule 2 are to come into force on the next occurrence of a vacancy in the office of Advocate General, *vide* Notification No. 3236, *B. G. G.*, 1892, Pt. I., page 542.

whether such Departments are under the Supreme or Local Government, have also the right to require the Advocate General's opinion in any matter they may think it necessary to refer to him.

May be consulted by the Legal Remembrancer, and the Solicitor to Government.

4. It is the duty of the Advocate General to advise (*a*)* the Solicitor to Government, as Public Prosecutor, (*a*) and the Legal Remembrancer, whenever (*a*)* either of those officers (*a*) deems it necessary, in any case or matter affecting the interests of Government to consult him.

Duties as Advocate.

5. It is the duty of the Advocate General to undertake any legal business within the range of an advocate's functions which Government may desire him to undertake in Bombay, and to represent Government in all actions and civil proceedings on the Original Side of the High Court.

6. It is the duty of the Advocate General—

May be required to appear on behalf of Government officers and others on the Original Side of the High Court;

(*a*) to appear on the Original Side of the High Court in every suit or other civil matter in which Government require his services, whoever the nominal party on whose behalf he is called on to appear may be (but he will not appear, without the requisition of Government, for any person except the Secretary of State for India in Council);

and in cases transferred for trial to the High Court.

(*b*) to appear, if required by Government, on their behalf in any original case, civil or criminal, which the High Court transfers from any other Court in the Presidency for trial before itself;

(*c*) to appear on behalf of Government in all appeals to the High Court from decisions of the Presidency Magistrates, when required to do so by Government, on the motion of the Solicitor to Government as Public Prosecutor;

†(*d*) to appear on behalf of Government in any case, civil or criminal, which comes before the High Court with reference to any decision, order or proceeding of a Court situated without the City of Bombay, when required to do so by Government, on the motion of the Legal Remembrancer or otherwise:

Provided that for every case in which he is called upon to appear under clause (*d*), the Advocate General shall be entitled to a fee as counsel of such amount as shall from time to time be fixed by Government.

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* The words from (*a*) to (*a*) shown in Rule 4 are to come into force on the next occurrence of a vacancy in the office of Advocate General, *vide* Notification No. 3236, *B. G. G.*, 1892, Pt. I., page 542.

† To come into force on the next occurrence of a vaccency in the office of Advocate General, *vide* Notification No. 3236, *B. G. G.*, 1892, Pt. I., page 542.

7. In any case in which it is proposed to require the services of the Advocate General on behalf of some third person not directly identified in interest with Government, Government will determine whether the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf, and when it has been so determined, it is the duty of the Advocate General to afford his services, as he would if Government were directly a party to the case.

Requisition for his services in cases to which Government is not a party to be made by Government.

8. It is the duty of the Advocate General to prosecute as leading Counsel in all original criminal cases tried before the High Court in which Government direct that their Law officers shall prosecute.

Prosecutes in criminal cases before the High Court when required by Government.

9. In ordinary original criminal cases tried before the High Court the Advocate General will exercise his discretion and prosecute as leading Counsel whenever he deems it desirable, in the interests of the public, that he should do so.

But in ordinary criminal cases exercises his discretion.

10. The Advocate General has also to discharge, as occasion arises, the various duties imposed upon him by specific enactments of the English and Indian Legislatures.

Statutory duties.

II.—The Solicitor to Government.

11. The salary of the Solicitor to Government is Rs. 2,000 per month.

Salary.

12. The Solicitor to Government is bound to discharge all the ordinary duties of an Attorney and Solicitor to Government and to those officers of Government who are entitled to consult the Advocate General.

Ordinary duties.

13. It is his duty to conduct all such conveyancing business and to draft all such instruments and other legal documents as the Supreme or Local Government, or any authorized Government officer, may require.

Conveyancing and drafting to be done by him.

14. The Legal Remembrancer is entitled to the assistance of the Solicitor to Government in all matters in which the special knowledge of a solicitor may be of advantage.

Legal Remembrancer entitled to his assistance.

15. It is the duty of the Solicitor to Government to retain counsel in criminal cases which are prosecuted by the Law Officers of Government, obtaining copies of the documents from the Public Prosecutor, and also to instruct Government Counsel generally in all cases except those in which the performance of this duty is otherwise provided for, or in which Government

Counsel to be retained and instructed by him.

or the officers entitled to consult the Advocate General instruct him direct; and his duties are in every respect co-extensive with those of the Advocate General, so far as the business of an attorney and solicitor is concerned.

References for legal opinion or advice how to be made.

16. Save in cases of emergency, references for the opinion or advice of the Advocate General must be made through the Solicitor to Government. Similiar references may be made by Government and the officers entitled to consult the Advocate General for the opinion or advice of the Solicitor to Government himself; and in every case it is the duty of the officer making the reference to state whether the opinion or advice of the Advocate General, or of the Solicitor to Government, is required; but in any case in which his own opinion may be asked, and which, on perusal, he may consider to be of special difficulty or importance, the Solicitor to Government should obtain and forward the opinion of the Advocate General.

Procedure in case of such references.

17. The officers of Government requiring legal advice from either the Advocate General or the Solicitor to Government are responsible for placing before the Solicitor to Government all, and not more than all, the documents necessary for the proper consideration of the point on which an opinion or advice is required, and also for stating, as precisely as possible, the point on which the advice or opinion is required; but if the Solicitor to Government, in any case submitted either for his own advice or opinion, or for that of the Advocate General, finds that the real point has been missed or incorrectly stated, or that the facts stated do not afford sufficient material for forming an opinion, it is his duty to return the case for re-submission in proper form, at the same time pointing out in what respect the reference is deficient.

Solicitor to Government is Public Prosecutor for Bombay.

18. The Solicitor to Government is also *ex-officio** Public Prosecutor for Bombay and in that capacity receives a salary of Rs. 500 per month, in addition to his salary as Solicitor.

Duties as Public Prosecutor.

19. The duties of the Public Prosecutor for Bombay are—

(1) to prepare and watch prosecutions in trials before the High Court, to draw the briefs, and to take care that the necessary witnesses are in attendance;

(2) to communicate with, and advise Magistrates, whether in Bombay or in the mofussil, in respect to cases committed, or to be committed, for trial in the High Court;

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* In the Sind Rules No. 18 runs: "The Solicitor to Government is appointed under section 492 of the Criminal Procedure Code *ex-officio* Public Prosecutor," &c.

(3) to conduct prosecutions under the provisions of the Criminal Procedure Code, before the High Court, subject to the Advocate General, or other counsel who appears at the time of trial;

(4) to retain counsel for the prosecution at his discretion, in any case committed for trial before the High Court, in which copy of the record is forwarded to him by the Clerk of the Crown;

(5) to originate or assume such prosecutions as he may be directed to originate by Government, or by any Judge, or Magistrate, or such as, by reason of there being no private person, or public body, on whom the duty of originating them should more properly fall, or on any other account, he shall, in his discretion, consider should be originated by him in his public capacity;

(6) to bring to the notice of Government any special circumstances connected with any trial which seem to him to require the attention of Government.

* Orders notifying commitment to the High Court under section 218 of the Criminal Procedure Code should be sent to the Public Prosecutor for Bombay. (*Vide* Notification No. 1321, *B. G. G.*, dated 1st March 1883, p. 182.) (Notn. No. 1321, *B. G.G.*, 1883, Pt. I., p. 182.)

III.—Remembrancer of Legal Affairs.

Salary.

20. The salary of the Remembrancer of Legal Affairs is Rs. 2,000 per month rising by annual increments of Rs. 100 to Rs. 2,500. He is entitled besides to travelling allowance at the usual rates when required to travel, and may, with the sanction of Government, employ such establishment as he thinks necessary, at a cost not exceeding Rs. 200 per month.†

Establishment.

Duties in respect of litigation in the Mofussil.

21. It is the duty of the Remembrancer of Legal Affairs to superintend and advise on the conduct of all litigation arising originally in the Mofussil in which the Government or Government officers are concerned or interested, in accordance with the rules prescribed in this behalf.

Control of Government Pleaders vested in him.

22. All the Government Pleaders throughout the Presidency, including the Government Pleader in the High Court, and‡ all Public Prosecutors except the Public Prosecutor for Bombay, are under his direct control and supervision, and all communications concerning the law business, or the Subordinate Law Officers of Government in the mofussil, are to be made to Government through him.

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* Para. 2 of Rule 19 is omitted in Sind Rules.

† His head-quarters are Poona until Government otherwise direct. (G. R. 3274, dated 5th June 1879, J. D.)

‡ In the Sind Rules for the words "all Public Prosecutors except the Public Prosecutor for Bombay" in Rule 22 there are substituted the following words "all Prosecuting Pleaders."

23. The Remembrancer of Legal Affairs is appointed under section 492 of the Criminal Procedure Code *ex-officio* Public Prosecutor* for the Presidency of Bombay except Sind and the city of Bombay. He will appear personally only in such cases as he deems it desirable that he should himself prosecute, or as the Government from time to time direct him to prosecute.

Is *ex-officio* Public Prosecutor under the Criminal Procedure Code.

24. It shall be the duty of the Public Prosecutor for the Presidency to prosecute in any criminal case before the High Court in which that Court on its Appellate Side may think it expedient to require an appearance to be made on behalf of the Crown. In any such case, the Public Prosecutor may, at his discretion, appear by the Government Pleader. If he thinks the case a fit one for the employment of special counsel he will report it to Government for orders, or in emergent cases may act in anticipation of such orders.

May be called on to prosecute by the High Court.

25. Except as is otherwise provided in Rules 15 and 19, the employment of special counsel, when necessary, on behalf of Government in any case, whether civil or criminal, which arises originally in the Mofussil, and the settlement of their fees, is also a part of the duties of the Remembrancer of Legal Affairs; and subject to the orders of Government, he is to exercise a control over all expenditure incurred on account of law charges, in connection with both civil and criminal cases in, or arising in, the Mofussil.

To engage special counsel, when necessary, and settle their fees.

26. Government Pleaders or local officers, who desire to engage special counsel for any case should communicate with the Remembrancer of Legal Affairs *before* doing so, informing him, in criminal cases, of the nature of the case, and of the evidence to be brought forward, and stating, in every case, when and where the hearing of trial will take place, how long it is likely to last, and what pleader or other counsel they wish to employ, and at what rate they purpose to remunerate him. If there is not time for this communication to be made before the date fixed, or likely to be fixed, for the hearing or trial of the case, the Court or Magistrate should be asked to adjourn it or to fix the date in the first instance at a sufficient distance of time to enable the officer concerned to obtain sanction for the employment of special counsel. The Remembrancer of Legal Affairs, if he thinks the case a fit one for the employment of special counsel, will submit the application for the orders of Government, but in emergent cases may act in anticipation of such orders.

Procedure when special counsel has to be employed.

27. The Remembrancer of Legal Affairs is bound to advise Government on all legal questions in connection with the administration of public affairs, or arising out of the acts of Government officers or public servants in the Mofussil which

Duties as Government adviser.

* In Rule 23 after the words "*ex-officio* Public Prosecutor", the Sind Rules, insert the following "for all cases throughout."

may be referred to him by Government. This duty extends to Government business of all kinds, and in all departments, whether under the Supreme or Local Government.

Procedure in respect of reference to him for opinion or advice.

28. Rule 17, which applies to references for the advice or opinion of the Solicitor to Government, or of the Advocate General, is to be held applicable, as far as may be, to all such references to the Remembrancer of Legal Affairs; but the Remembrancer of Legal Affairs will, in this as in all other branches of his duties, himself ordinarily perform all the usual work of a solicitor.

Direct references by Government officers to him for opinion or advice not ordinarily permitted.

29. Heads of Departments in the Mofussil may make direct references to the Remembrancer of Legal Affairs for advice or opinion only in respect of suits or other civil proceedings which are actually pending, and in which Government is concerned or interested, and of criminal proceedings which are actually pending. References on general questions, or in regard to proceedings other than the above, should be submitted to Government, who will call for the Remembrancer of Legal Affairs' report, or not, as they deem fit. *In the case of reference to the High Court under the Stamp Act, the Remembrancer of Legal Affairs will ordinarily decide whether or not the Government Pleader in the High Court need appear on behalf of Government. Whenever he has any doubt, he should take the special orders of Government.

Municipalities and Local Boards not ordinarily entitled to his advice.

30. Municipalities and Local Boards must, as a general rule, be left to defend the legality of their own proceedings, and are not entitled to the advice of the Government Law Officers. But in cases of special importance, or difficulty, a reference may be made to Government to obtain the opinion or advice of the Remembrancer of Legal Affairs for the guidance of Municipalities or Local Boards in their proceedings, or in the defence of actions which have been brought against them, or with which they are threatened.

(Notn. No. 6806, *B.G.G.*, 1891, Pt. I., p. 1039.)

Duties in respect of appeals against acquittals in criminal cases and of applications to High Court to exercise powers of revision.

31 (1). † It is also the duty of the Remembrancer of Legal Affairs to advise Government regarding proposals to appeal, under section 417 of the Criminal Procedure Code, against the acquittal of accused persons and regarding proposals

(Notn. No. 20, *B.G.G.*, 1886, Pt. I., p. 48.)

* In the Sind Rules the last two sentences of Rule 29 are omitted.

† In No. 31 of the Sind Rules the words "Sadar Court" are substituted throughout for "High Court."

In clause 4 of the same rule for the words "the Government Pleader in the High Court," the Sind Rules, substitute the words "the Public Prosecutor for Sind."

In clause 5 for "Government Pleader," the Sind Rules, substitute "the Public Prosecutor for Sind" and omit the words "authorise him to."

In clauses 6 and 8 for "Government Pleader," the Sind Rules, ubstitute "Public Prosecutor."

In clause 7 for "Government Pleader," the Sind Rules, substitute "Public Prosecutor for Sind".

to apply to the High Court to exercise powers of revision in criminal matters which District Magistrates are not authorized to refer direct to that Court under section 438 of the Criminal Procedure Code.

(2). Every such proposal must be forwarded by the officer making it to the Head of his Department, who, if he concurs in it, shall submit it with his own opinion to Government, through the Legal Remembrancer.

(3). The Legal Remembrancer, after calling for all information or papers that he may deem necessary to enable him to arrive at a correct opinion, shall forward the correspondence to Government, together with a report, stating his opinion; and, if he advises an appeal or application to the High Court, the principal grounds on which he suggests its being based.

(4). If Government sanction the appeal or application, copies of the correspondence and of the Legal Remembrancer's report will be forwarded direct to the Government Pleader in the High Court from the Secretariat, with a copy of the Government Resolution empowering him to file the appeal or application.

(5). The appeal or application will then be drawn up by the Government Pleader and after consultation with the special counsel, if any, whom Government authorize him to retain for the purpose.

(6). Neither the grounds of appeal or application nor the arguments used in support of the same at the hearing need be limited to those stated in the Legal Remembrancer's opinion. The Government Pleader or other counsel will be at liberty to exercise his own discretion as to the manner in which the appeal should be conducted or the application supported, subject only to any special reservations which may be made in the Government Resolution sanctioning the appeal or application.

(7). As soon as Government have sanctioned the institution of an appeal or the filing of an application, it will be the duty of the Legal Remembrancer and of the local officer who proposed the same to forward to the Government Pleader direct without delay all the material papers in their possession relating to the case.

(8). As soon as the appeal or application has been disposed of, the Government Pleader will inform the Legal Remembrancer of the result. If a written judgment is recorded by the Court, he will obtain with as little delay as possible two copies of it, and forward one to the Legal Remembrancer and one, with the papers, to the officer who proposed the appeal or application.

(9).* The result of the appeal or application will be specially reported to Government by the Legal Remembrancer only in such cases as appear to him to be important. As a general rule it will suffice if the different cases and their results are mentioned in

* Government Memo. No. 1736, dated 29th March 1889, Judicial Department, directs that result of appeals in all cases in future should be reported to Government.

his annual report to Government. The officer who proposed the appeal or application need not communicate its result to Government.

And in drafting Bills.

32. It is also the duty of the Remembrancer of Legal Affairs to draw Bills embodying such proposals for legislation as may be sent to him for the purpose from any of the Executive Departments of Government.

First drafts how to be treated.

33. Bills so drawn will in the first instance be regarded merely as drafts intended to facilitate the further discussion of the proposed measure in the Executive Department of Government for which they have been prepared, or with such persons as that Department may think it desirable to consult.

Final revision of Bills.

34. If it should ultimately be determined to proceed to legislation, the draft prepared by the Remembrancer of Legal Affairs will be returned to him; and it will be his duty to revise the draft, embodying in it all the provisions held to be necessary or desirable, and to finally mould the Bill in the shape in which it should be introduced into the Legislative Council, adding to it the usual Statement of Objects and Reasons. He will then cause the Bill to be printed under his supervision, and submit it to the department for which it has been prepared.

Drafting of rules, notifications, &c.

35. The Remembrancer of Legal Affairs is bound also to bring to the notice of Government from time to time all new enactments which require the issue by Government of rules, orders, bye-laws, or notifications, or which involve any change in any existing rules, orders, bye-laws, or notifications, and on receipt of the necessary instructions, to draft all such rules, orders, bye-laws, or notifications, as it may be necessary to issue, for the approval of Government. And all rules, orders, bye-laws, or notifications which it is at any time proposed to issue in the name of the Governor in Council in virtue of any power derived from any legislative enactment should be forwarded to the Remembrancer of Legal Affairs in order that he may revise the same before they are issued with a view to legal precision and correctness.

Annual report.

36. The Remembrancer of Legal Affairs is to submit an annual report for the calendar year to Government, detailing the general results of the civil litigation in the mofussil in which Government or Government Officers were concerned, and of the criminal prosecutions, if any, in which special measures may have been taken on behalf of Government to secure conviction, and bringing to the notice of Government all such other matters of interest in connection with their legal affairs as he may think necessary. To enable him to prepare this report the Remembrancer of Legal Affairs may call upon local officers of every department to furnish him with such information as he deems necessary.

Government Pleaders and Public Prosecutors.

"Government Pleader" defined.

37.* The term "Government Pleader" includes—

(1) the Government Pleader in the High Court;

(2) District Government Pleaders; and

(3) Subordinate Government Pleaders (of whom one will be nominated for every Subordinate Judge's Court or Small Cause Court not situated at the head-quarters of a District Government Pleader).

"Public Prosecutor" defined.

† The term "Public Prosecutor" means any person appointed by Government under section 492 of the Criminal Procedure Code to be Public Prosecutor for a district or a division of a district, or for a specified class of cases in a district or division of a district, and it also includes the Government Pleader in the High Court for the purposes mentioned in Rule 47 of these Rules, and any person appointed by a District or Sub-divisional Magistrate for the purposes mentioned in Rule 50 of these Rules.

Salaries.

‡ 38. The salary of the Government Pleader in the High Court is Rs. 300 per month. The salaries of the District Government Pleaders are as follows :—

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* For rules regarding appointments of Honorary Assistant to Government Pleaders, *vide* High Court Rules published at page 899, *B. G. G.*, 1886.

The object in view is that the candidate who becomes an Honorary Assistant to Government Pleaders should gain aptitude and experience (G. R. No. 4926 of 16th September 1889, J. D.).

In the Sind Rules for Rule 37 the following is substituted :—

37. The term "Government Pleader" includes :—

(1) The Government Pleader in the Sadar Court;

(2) The District Government Pleaders of Karáchi, Hyderabad and Shikárpur and the Upper Sind Frontier District, and the Assistant Government Pleader of Karáchi;

(3) Subordinate Government Pleaders (of whom one will be nominated for every Subordinate Judge's Court or Small Cause Court not situated at the head-quarters of a District Government Pleader).

† In Sind Rules para. 2 of Rule 37 is omitted.

‡ In the Sind Rules for Rule 38 the following is substituted :—

Salaries.

38. The offices of Public Prosecutor for Sind, Government Pleader in the Sadar Court and District Government Pleader of Karáchi are held by one officer; and the offices of District Government Pleader for Shikárpur and District Government Pleader for the Upper Sind Frontier District are also held by one officer.

The District Government Pleaders of Hyderabad, Shikárpur and the Upper Sind Frontier District and the Assistant Government Pleader of Karáchi are Public Prosecutors for those districts respectively in the absence of the Public Prosecutor for Sind.

The salaries of the Government Pleaders and Public Prosecutors are as follows :—

Public Prosecutor for Sind, Government Pleader in the Sadar Court and District Government Pleader of Karáchi.	Rs. 400 per mensem.
Government Pleader and Public Prosecutor, Hyderabad.	Rs. 150 per mensem.
Do, do. Shikárpur and Upper Sind Frontier District.	Rs. 150 per mensem.

Ahmedabad	Each Rs. 125 per month.
Surat	
Thána and Kolába* ...	
Poona	
Kaira	Each Rs. 35 per month.
Broach	
Ratnágiri	
Kánara	
Ahmednagar...	Each Rs. 20 per month.
Dhárwár	
Kaládgi	
Belgaum	
Sátára	
Sholápur	
Násik	
Khándesh	
Panch Mahál	

Fees in civil cases.

39. (1) Subject to the provisions hereinafter contained, all Government Pleaders are entitled to the usual fees allowed by the Courts according to law as cost in each civil cause in which they are engaged.

† (2) In cases in which a reference is made to the High Court under the Stamp Act, and in which the Government Pleader in the High Court is instructed to appear on behalf of Government, he shall be entitled to a fee of thirty rupees.

(3) In cases in which a reference is made to a Civil Court under section 15, Act X of 1870, the fees shall be calculated on the amount of compensation tendered by the Collector under section 11 of the Act, or, if no claimant attended pursuant to the notice mentioned in section 9, on the amount of compensation which the Collector, under section 18, shall have declared himself willing to give to the parties.

‡ (4) In enquiries under the Indian Treasure Trove Act, 1878, the Government Pleaders, when they appear on behalf of Government, are entitled to the usual fees calculated on the value of the share of the treasure to which Government may § lay claim, subject to any increase that may be sanctioned by Government in particular cases. (Notn. 913, *B. G. G.*, 1882, Pt. I., p. 188.)

‖ (4*a*) A Government Pleader employed by a Conservator of Forests in an appeal under section 16 of the Indian Forest Act, 1878, shall receive, for each case, a fee of Rs. 10, subject, by order of the (Notn. 5291, *B. G. G.*, 1884, Pt. I., p. 482.)

* There is a separate District Public Prosecutor for the Kolába District, who receives a salary of Rs. 120 per month. (G. R. No. 417 of 23rd January 1875, J. D.)

† In the Sind Rules para. 2 of Rule 39 is omitted.

‡ In the Sind Rules after the words "on behalf of Government" in para. 4 of Rule 39 the following is inserted: "in accordance with the rule of procedure made under section 19 of that Act and published at page 188 of the *B. G. G.* of 15th March 1882."

§ In Sind Rules substitute "lays" for "may lay".

‖ The Sind Rules substitute the following as para. 4*a* of Rule 39:—

"In civil cases in which no fee is allowed in the Court's bill of costs the Government Pleader's fee will from time to time be fixed by Government on the recommendation of the Remembrancer of Legal Affairs." (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 75.)

Remembrancer of Legal Affairs, to diminution to a sum not less than Rs. 5 and to increase to a sum of not more than Rs. 30.

(5) Whenever two or more officers of Government may be parties to the same suit, they shall, ordinarily, all be represented by the Government Pleader, who shall alone conduct the suit, and shall receive but one fee for it; but if special circumstances render it expedient to appoint more than one pleader for the conduct of any such case, and whenever it seems necessary to adopt pleadings involving several lines of defence, or separate answers differing in substance, a second Pleader may be appointed, with the approval of the Remembrancer of Legal Affairs, or a separate fee may be awarded to the Government Pleader by the Remembrancer of Legal Affairs for each separate defence.

(6) In cases of unusual importance, or difficulty, or in which marked industry or ability has been displayed, the Remembrancer of Legal Affairs is empowered to grant to a District Government Pleader a further special remuneration not exceeding Rs. 100 for each case. Special remuneration in excess of Rs. 100 may be granted only with the sanction of Government.

Fees in criminal cases to Government Pleader in the High Court.

* 40. The Government Pleader in the High Court is also entitled to a fee of thirty rupees for every criminal case in which he actually appears: provided that any person appointed by Government to be Public Prosecutor for the purposes mentioned in Rules 47 and 48 of these Rules, during the unavoidable absence of the Government Pleader, or for any other special reason, shall be entitled to the same remuneration.

Fees for prosecutions in criminal cases in the mofussil.

† 41. District Government Pleaders and Public Prosecutors are entitled to a fee of Rs. 10 per diem for every day that they are actually engaged in criminal business either in the Sessions Court or in any Magistrate's Court at head-quarters.

In cases of unusual importance or difficulty, or in which marked industry or ability has been displayed, the Remembrancer of Legal Affairs is empowered to increase this fee to an amount not exceeding Rs. 25 per diem. A higher fee than Rs. 25 per diem may be granted only with the sanction of Government.

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* In Sind Rules No. 40 runs as follows:—

The Public Prosecutor for Sind's fees in the Sadar Court sitting at Karáchi.

40. The Public Prosecutor for Sind is entitled to a fee of thirty rupees for every criminal case in which he appears in the Sadar Court in Karáchi. (Notn. 436, *B. G. G.*, 1883, p. 76.)

If any such case in which the Public Prosecutor appears is held on the same day that he becomes entitled to a fee under Rule 41, the fee for such case shall be payable in addition to the fee under Rule 41. (No. 796, *B. G. G.*, 1884, Pt. I., p. 73.)

† 41. In Rule 41 for the first seven words the Sind Rules substitute the following: "Every Public Prosecutor is" and the word "he" for "they"; the word "either" is omitted.

Fees to Government Pleaders in the High Court when employed in the mofussil.

*42. If the Government Pleader in the High Court is required under Rule No. 52 to appear in any case in the mofussil, he is entitled to a fee of Rs. 150 per diem for every day that he is necessarily absent from Bombay. This fee is inclusive of travelling and all other expenses.

Fees to District Government Pleaders when employed away from their head-quarters.

†43. If a District Government Pleader or Public Prosecutor is required under Rule 53 to proceed to Bombay he is entitled to a fee of Rs. 25 for every day that he is necessarily absent from his station, and to his actual travelling expenses to and from Bombay, and to his actual expenses for hire of conveyances whilst in Bombay; and if he is required to appear in any case in any Court situated else-

* In Sind Rules No. 42 runs as follows:—

Public Prosecutor for Sind's and Government Pleader Sadar Court's fees when employed out of Karáchi.

42. If the Government Pleader of the Sadar Court or the Public Prosecutor for Sind is required to appear in any case, civil or criminal, out of the Karáchi District, or before the Sadar Court in any case out of Karáchi, he is entitled to a fee of Rs. 60 per diem for every day that he is necessarily absent from Karáchi; and if the Public Prosecutor for Sind is required to appear in any case in the Sessions Court or before a Magistrate in any place in the Karáchi District other than Karáchi, or if the District Government Pleader of Karáchi is required to appear in any civil case in any such place, he is entitled to a fee of Rs. 30 per diem for every day that he is necessarily absent from Karáchi.

Public Prosecutor for Sind's and District Government Pleader Karáchi's fees when employed in the Karáchi District out of Karáchi.

The above fees are inclusive of travelling and all other expenses and in lieu of any fee to which the officer in question might otherwise be entitled. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 76.)

A day shall for the purposes of this rule mean any fraction of the period from midnight to midnight exceeding six hours, and a fee may be payable for any day under this rule in addition to fees under Rule 40 or Rule 41. (No. 796, *B. G. G.*, 1884, Pt. I., p. 73.)

† For Rule 43, the Sind Rules, substitute the following:—

43. If the District Government Pleader and Public Prosecutor of Hyderabad or Shikárpur and the Upper Sind Frontier District is required under Rule 53 to proceed to Karáchi, he is entitled to a fee of Rs. 25 per diem for every day that he is necessarily absent from his station and to his actual travelling expenses to and from Karáchi, and to his actual expenses for hire of conveyances whilst in Karáchi or elsewhere beyond his own district. (No. 7476, *B. G. G.*, 1885, Part I., p. 1262.)

And if either of the said Pleaders or the Assistant Government Pleader of Karáchi is required to leave Hyderabad, Shikárpur, or Karáchi, respectively, or (No. 2976, *B. G. G.*, 1887, Pt. I., p. 452) if the Assistant Public Prosecutor of Shikárpur and the Upper Sind Frontier District who resides at Sukkur is required to leave Sukkur to conduct a case, whether civil or criminal, at any place in his District, he shall be entitled to a district allowance of Rs. 3 per diem for every day that he is necessarily absent from his station, and to a travelling allowance at the rate of 4 annas per mile travelled otherwise than by railway or steamer and at $1\frac{1}{2}$ annas per mile by railway or steamer.

The allowances mentioned in the last paragraph shall be in addition to the fees to which the said Pleaders may be otherwise entitled, unless in any case a higher fee than Rs. 10 per diem is drawn, when such higher fee shall be deemed to include the district allowance. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 76.)

where than at his head-quarters, he is entitled to a fee to be fixed by the Remembrancer of Legal Affairs according to the circumstances of each case, but not exceeding Rs. 50 per diem, for each day that he is necessarily absent from his head-quarters. This fee is inclusive of travelling and all other expenses.

Travelling allowance of District Government Pleaders, &c., in certain cases.

44. A District Government Pleader or Public Prosecutor leaving the head-quarters of his district or division on duty, for which duty he receives no fee in addition to his pay, is entitled to travelling allowance either at Rs. 3 a day for the period of his absence from head-quarters,* or at 4 annas per mile travelled otherwise than by railway, and at 1½ annas per mile by railway.*

(No. 6254, *B. G. G.*, 1886, p. 949.)

Alíbág, Broach, Kaira, Bijápur and Godhra shall for the purposes of this and of the last preceding rule, be deemed to be the head-quarters of the districts of Kolába, Broach, Kaira, Bijápur and the Panch Maháls respectively: provided that no travelling allowance shall be admissible under this rule for journeys on duty between any of the above places and Thána, Surat, Ahmedabad, Sholápur and Kaira respectively, and that nothing in the latter part of Rule 43 applies to appearances in any Court situated in the five last-mentioned places.

Ordinary duties of Government Pleaders.

†45. It is the duty of Government Pleaders to appear on behalf of Government, or of any Government Officer, in any suit or other civil proceeding to which Government are a party, or the institution or defence of which is undertaken by Government, or in any suit or other civil matter, in which Government requires their services, whoever the nominal party on whose behalf they are called on to appear may be, if Government determine that the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf; and also to appear, when so directed by the District Judge, in support of an order by a Subordinate Judge imposing a fine on a Pleader under Regulation II of 1827 or on a witness under the provisions of the Code of Civil Procedure,

(No. 5949, *B. G. G.*, 1892, p. 1071.)

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* In Sind Rules the words "or steamer" are added after the word "railway" in Rule 44. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 76.)

† In Sind Rules the following addition has been made to No. 45 after the word "order" in line 20:—

The Government Pleader in the Sadar Court shall also appear in the Sadar Court—

(*a*) When so directed by the Judicial Commissioner of the province of Sind or instructed by a Judge of a District in that province to support an order imposing a fine,

(i) on a pleader under Regulation II of 1827, or

(ii) on a witness under the Code of Civil Procedure, or

(*b*) When so directed by the Commissioner in Sind or by the Judicial Commissioner of the province of Sind or instructed by a Judge of a District in that province to support allegations of misbehaviour against a pleader in proceedings held for the purpose of determining whether such pleader should be removed or suspended from practice under Section 16 of Bom. Act XII of 1866. (Notn. No. 1950, *B. G. G.*, 1893, p. 312.)

and appealed against to the District Court, when, for any sufficient cause, the District Judge is of opinion that a Pleader should be heard in support of the order.

Retaining and instructing of special counsel for Mofussil cases.

*46. Whenever special counsel is employed by the Remembrancer of Legal Affairs, under Rule 25, in Bombay for any case to be heard either in Bombay or in the Mofussil, the Government Pleader in the High Court shall take (under instructions from the Remembrancer of Legal Affairs) the usual steps for retaining such counsel. The counsel's brief will be prepared, for any case to be tried in Bombay, by the Government Pleader in the High Court, and for any case to be tried in the Mofussil, by the Government Pleader of the district, or by the Public Prosecutor of the district or division in which the case is to be tried; and, in the latter case, the brief when prepared will be forwarded by the District Government Pleader, or the Public Prosecutor to the Government Pleader, in the High Court for submittal to the counsel.

Duties of the Government Pleader in the High Court in criminal cases.

†47. The Government Pleader in the High Court is appointed Public Prosecutor for the purpose of presenting appeals to the High Court in cases of acquittal on behalf of Government under section 417 of the Criminal Procedure Code, and for the purpose of appearing for the prosecution in criminal appeals heard before the High Court under section 423 of the said Code, and for the Crown in other criminal cases which come before the High Court on its Appellate Side under the provisions of the Criminal Procedure Code. (Notn. 4161 B.G.G., 1883, Pt. I., p. 446.)

‡48. The Government Pleader in the High Court, as Public Prosecutor on the Appellate Side of that Court, must appear for the prosecution, if called upon, in any criminal case from the Mofussil which comes before that Court on that side. (Notn. 1578, B. G. G., 1883, Pt. I., p. 213.)

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*In Sind Rules No. 46 runs as follows:—

46. Whenever special counsel is employed by the Remembrancer of Legal Affairs under Rule 25 for any civil or criminal case to be heard in Sind, the counsel's brief will be prepared by the Government Pleader of the district in which the case is to be heard. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 76.)

† In Sind Rules No. 47 is as follows:—

47. The Public Prosecutor for Sind is liable to appear for the Crown in the Sadar Court:

(*a*) under section 417 of the Criminal Procedure Code for prosecuting such appeals as Government from time to time directs against acquittals:

(*b*) under section 422 of the Criminal Procedure Code for the prosecution in appeals against convictions heard before that Court:

(*c*) in any other criminal cases which come before that Court under the Criminal Procedure Code.

He is appointed by Government under section 22 of the Criminal Procedure Code to receive notices of criminal appeals to be heard before the Sadar Court. (Notn. No. 436, *B. G. G.*, 1883, p. 76.)

‡ Rule 48 of the Sind Rules is as follows:—

48. (1) The Public Prosecutor for Sind will ordinarily appear in the Sadar Court:

He will ordinarily so appear :—

(*a*) in every case submitted to the High Court under section 374 of the Criminal Procedure Code for confirmation ; and

(*b*) in every appeal against an acquittal ; and

(*c*) in every case submitted to the High Court under section 307 of the Criminal Procedure Code and in every appeal against a conviction heard by it under section 423 of the said Code, if in such case or appeal the accused person (or when there are several accused persons, any one of them) is represented by counsel, whether a barrister or a pleader ;

(No. 5029, *B. G. G.* 1886, p. 737.)

(*d*) in any criminal case in which he may be specially instructed to appear by the Sessions Judge or Magistrate of a district, or by the Remembrancer of Legal Affairs ; and

(*e*) in any criminal case in which the High Court or a Division Court desires him to appear or intimates its opinion that he ought to appear.

(No. 4161, *B. G. G.*, 1883, Pt. I., p. 446; No. 5804, *B. G. G.*, 1883, Pt. I., p. 631; and No. 1572, *B. G. G.*, 1890, Pt. I., p. 254.)

Duties of District Public Prosecutors in criminal cases.

*49. Notices of commitments under section 218 of the Criminal Procedure Code will be given to the District Public Prosecutors who will ordinarily conduct the prosecution in every trial before Courts of Sessions in

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(*a*) in every case submitted to that Court under section 374 of the Criminal Procedure Code for confirmation ; and

(*b*) in every appeal against an acquittal ; and

(*c*) in every appeal against a conviction heard by the Sadar Court under section 423 of the said Code, if the accused (or where there are several accused persons, any one of the accused persons) is represented by counsel, whether a barrister or pleader ; and

(*d*) in every criminal case which the Sadar Court transfers from any Subordinate Court for trial before itself ; and

(*e*) in any criminal case in which he may be specially instructed to appear by the Magistrate of a district or by the Commissioner in Sind, or by Government ; and

(*f*) in any criminal case in which the Sadar Court desires him to appear or intimates its opinion that he ought to appear.

(2) He will conduct, in person or through his Assistant, all the duties of Public Prosecutor for the Karáchi District, and when so directed by Government or by the Commissioner in Sind, or in special circumstances when there is not time to communicate with the Commissioner in Sind, by the District Magistrate, will appear on behalf of the Crown in any criminal case in any other part of the province.

When the District Magistrate gives such sanction he shall submit a full report of the circumstances making this necessary to the Commissioner in Sind. (Notn. No. 4227, *B. G. G.*, 1888, Pt. I., p. 658.)

*Rule 49 of the Sind Rules corresponds with No. 49 of these rules with the following modifications :—

After the word "commitments" insert "and appeals" and after the figure "218" insert "and 422."

Omit the word "District" before the words "Public Prosecutor."

For the words "appear for the prosecution" substitute "shall appear."

In the penultimate sentence for the words "by the Remembrancer of Legal Affairs" read "by the Commissioner in Sind or by Government." (Notn. No. 426, *B. G. G.*, 1883, Pt. I., p. 79.)

accordance with section 270 of the Criminal Procedure Code, and appear for the prosecution at the hearing of any appeal before those Courts when counsel, whether a barrister or pleader, appears for the appellant, or when they are specially instructed by the District Magistrate so to appear. When so required by the Sessions Judge, the Magistrate of the district, or by the Remembrancer of Legal Affairs, it is their duty also to conduct the prosecution in any trial before a Magistrate. Whenever the previous connection of the District Public Prosecutor with any case has been such as to embarrass him in the discharge of his functions as Public Prosecutor, a reference shall be made to Government by the Magistrate of the District with a view to the appointment of a special Public Prosecutor for such case.

When District Public Prosecutors and their Assistants may act on behalf of accused persons.

* 49*A*. A District Public Prosecutor may not act on behalf of an accused person within his district without the previous permission of the Magistrate of the District, or of the Legal Remembrancer. (Notn. 2115 *A., B. G. G.*, 1887, Pt. I., p. 295.)

An Assistant Public Prosecutor, after consulting the District Public Prosecutor to whom he is an Assistant, may act on behalf of an accused person within his district, subject to the following conditions, *viz.* :

(1) That he shall not do so in any case in which it shall appear to the District Public Prosecutor that his services will very probably be required for the prosecution.

(2) That if his services are required for the prosecution in any case in which he has already appeared or been engaged for the defence, he shall

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* No. 49*A* of the Sind Rules is as follows:—

When Public Prosecutors and their Assistants may act on behalf of accused persons.

"49*A*. The Public Prosecutor for Sind may not act on behalf of an accused person in Sind without the previous permission of the Commissioner in Sind.

"The District Public Prosecutors of Hyderabad and of Shikárpur and the Upper Sind Frontier District may not act on behalf of an accused person within their respective districts without the previous permission of the Magistrate of the district or of the Commissioner in Sind.

"The Assistant Government Pleader of Karáchi and any Pleader appointed to be an Assistant Public Prosecutor, after consulting the Public Prosecutor for Sind, in the case of the Assistant Government Pleader of Karáchi and the District Public Prosecutor to whom he is an Assistant in any other case, may act, on behalf of an accused person within his district, subject to the following conditions, *viz.* :

"(1) That he shall not do so in any case in which it shall appear to the Public Prosecutor for Sind or to the District Public Prosecutor, as the case may be, that his services will very probably be required for the prosecution.

"(2) That if his services are required for the prosecution in any case in which he has already appeared or been engaged for the defence, he shall provide a substitute to the satisfaction of the Magistrate of the district, who will be willing to conduct the prosecution on the same terms as to remuneration which apply to himself." (Notn. No. 2115, *B. G. G.*, 1887, Pt. I., p. 294.

provide a substitute to the satisfaction of the Magistrate of the district, who will be willing to conduct the prosecution on the same terms as to remuneration which apply to himself.

Appointment and remuneration of special prosecutors under section 492 of the Criminal Procedure Code.

* 50. When, under section 492 of the Criminal Procedure Code, a Magistrate of the district or subject to his control a Sub-divisional Magistrate appoints any person in the absence of the Public Prosecutor or when no Public Prosecutor has been appointed to be Public Prosecutor for the purpose of conducting the prosecution in any trial before the Court of Sessions, such person shall be entitled to the same remuneration as would be payable under Rule 41 of these rules.

But no such person shall be appointed by a Magistrate of the district without the concurrence of the Remembrancer of Legal Affairs, and if, for special reasons, a higher rate of remuneration than the above is deemed necessary for the person whom it is proposed to appoint, the sanction of Government must be obtained, through the Remembrancer of Legal Affairs, before any liability is incurred.

Duty of Government Pleader and Prosecuting Pleader when the Public Prosecutor or special counsel appears.

† 51. When the Public Prosecutor for the Presidency or special counsel appears for the prosecution in any case before the High Court, or any Sessions Court, the Government Pleader or Prosecuting Pleader will appear also and assist, or instruct the Public Prosecutor or special counsel, as may be necessary.

Government Pleaders in the High Court may be required to appear in the Mofussil.

‡ 52. The duties of the Government Pleader in the High Court are ordinarily restricted to that Court, but it is his duty, also, whenever his services can be spared without inconvenience to that Court, and the Remembrancer of Legal Affairs so requires, to appear in any case, whether civil or criminal, in any Court in the Mofussil.

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* In Sind Rules No. 50 runs as follows :—

50. When under section 492 of the Criminal Procedure Code, a district Magistrate or Sub-divisional Magistrate appoints any person to be Public Prosecutor in any particular case, such person shall be entitled to the same remuneration as would be payable under these rules to the Public Prosecutor of the district if he conducted the prosecution. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 77.)

† No. 51 of the Sind Rules is as follows :—

51. When special counsel appears for the prosecution in any case before the Sadar Court or any Sessions or Magistrate's Court, the Government Pleader of such Court will appear also, and assist or instruct the special counsel as may be necessary, and when the Public Prosecutor for Sind appears for the prosecution in any case before a Sessions Court or a Magistrate's Court in the districts of Hyderabad, Shikárpur, or the Upper Sind Frontier district, the Government Pleader of that district will appear also and assist or instruct him as may be necessary. (Notn. No. 436, *B. G. G.*, 1883, Pt. I., p. 77.)

‡ In Sind Rules for Nos. 52 and 53 the following rules are substituted :—

52. The duties of the Government Pleader in the Sadar Court, as such, are ordinarily limited to that Court, but it is his

‡ 53. Similarly District Government Pleaders' duties are ordinarily restricted to the Courts at the head-quarters of the district for which they are appointed, and Public Prosecutors' duties are ordinarily restricted to the Sessions Courts to which they are respectively appointed; but when so required by the Collector or Magistrate of the district, or by the Remembrancer of Legal Affairs, they will appear in any case in any Court in the said district, or proceed to Bombay to instruct Counsel, or to assist at the hearing or trial of any case in the High Court, or for any other such purpose: provided that in the case of Public Prosecutors such requisitions shall be confined to criminal cases.

District Government Pleaders and Public Prosecutors may be required to proceed to Bombay, or to appear in other Courts than those at the head-quarters.

54. The duties of Subordinate Government Pleaders are limited to appearing on behalf of Government in the Courts for which they are respectively appointed in any suit or other civil matter in which the District Government Pleader would appear if such suit or matter arose in any Court at the head-quarters of the district. They are to be subordinate to the respective District Government Pleaders, and whenever a District Government Pleader appears in any Court in which there is a Subordinate Government Pleader, the latter will appear with him as junior pleader.

Duties of Subordinate Government Pleaders.

*55. It is the duty of the Government Pleader in the High Court to advise District Officers only in respect of any proceedings, whether civil or criminal, which he has or may have to conduct on behalf of Government, but his duties as hereinbefore described extend to Government business in all its departments, whether under the Supreme or Local Government.

Duties of Government Pleader in the High Court as adviser of Government Officers.

56. It is the duty of the District Government Pleaders to advise all local officers not only in respect of any proceedings, whether civil or criminal, which they may have to conduct on behalf of Government or of any

District Government Pleaders' duties as advisers of Government Officers.

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duty, also, whenever his services can be spared without inconvenience to that Court and without detriment to the discharge of his duties as Public Prosecutor for Sind, to appear, if required by Government or by the Commissioner in Sind, in any Civil Court in the Province. Whenever the Government Pleader in the Sadar Court so appears in any Civil Court in which there is a District or Subordinate Government Pleader, the latter will appear with him as Junior Pleader.

53. Similarly, the duties of the District Government Pleaders and Public Prosecutors of Hyderabad, Shikárpur, and the Upper Sind Frontier District are ordinarily restricted to the District and Sessions Courts for which they are respectively appointed; but when so required by the Collector or Magistrate of the District or by Government or the Commissioner in Sind they will appear in any case in any Court in their respective districts, or proceed to Karáchi or elsewhere beyond their own district, to instruct Counsel, or to assist at the hearing or trial of any case in the Sadar Court, or for any other such purposes. (Notns. No. 436, *B. G. G.*, 1883, p. 77, and No. 7476, *B. G. G.*, 1885, Pt. I., p. 1262.)

* In Sind Rules in No. 55 the words "Sadar Court" are substituted for "High Court."

such officer, but also, to the best of their ability, on all legal matters which any such officer may refer to them concerning any Government business of any kind or in any department, whether such department be under the Supreme or Local Government.

RULES FOR THE INSTITUTION AND DEFENCE OF SUITS.

The following rules for the guidance of all Officers in connection with the Institution and Defence of Suits and other Civil Proceedings in the Mofussil, in which Government, or any Officer of Government is a party, or in which Government have any interest, are issued in supersession of all existing Rules or Orders on the same subject. These rules do not apply to the Province of Sind :—

I.—Institution of Suits on behalf of Government.

*Notn. No. 6452 C., B. G. G., 1878, Pt. I., pp. 751 to 765.

Report to be submitted before a suit is instituted.

Any officer wishing to institute a suit shall submit a clear and detailed report, through the ordinary channel of communication, to the Head of his department, showing—

(*a*) the circumstances which render the suit necessary ;

(*b*) the exact nature of the claim for which it is to be brought ;

(*c*) the steps, if any, which have been taken to obtain satisfaction of the claim without bringing a suit ;

(*d*) what objection or excuse, if any, the defendant has urged against the claim ;

(*e*) the evidence, both oral and documentary, which it is proposed to adduce in support of the claim ; and

(*f*) the evidence which, so far as is known, the defendant will be able to adduce in his defence.

All documents relied upon, and all the correspondence and written proceedings, whether in English or in the vernacular, connected with the proposed suit, should accompany the report.

Solvency of defendant to be inquired into.—

2. It should be stated in the report whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him.

The probability of the recovery of a sum at least equal to the costs should be ascertained before recommending the institution of any suit, unless, for reasons which should be explained, it is considered that the suit should be brought, notwithstanding that the recovery of costs is doubtful.

Report to be referred by head of department to the Legal Remembrancer.

3. The head of the department, if he thinks that all the necessary preliminary steps have been taken, and that there is *primâ facie* sufficient cause for the institution of a suit on behalf of Government, shall refer

* The Sind Rules are, with the verbal modifications, noted in the foot-notes identical with those for the rest of the Presidency and were published by Notn. No. 6849, *B. G. G.*, 1882, Pt. I., pp. 951 to 961.

the report with his opinion to the Remembrancer of Legal Affairs.

Legal Remembrancer's duty on receipt of report.

4. The Remembrancer of Legal Affairs will then thoroughly inform himself of the whole of the circumstances, calling for such further information, or additional papers as he thinks necessary, and report his opinion to Government in detail as to the advisability of instituting a suit.

The report of the officer who proposed the institution of the suit and the opinion of the head of the department should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

Papers to be recorded in the Legal Remembrancer's office.

5. The report of the officer who proposed the institution of the suit and all other documents accompanying the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

Preparation of plaint.

6. If the institution of the suit be sanctioned, a draft of the plaint will be prepared by the Government Pleader of the district in which the suit is to be instituted, in consultation with the officer who proposed its institution, and will be submitted by him direct to the Remembrancer of Legal Affairs for approval.

II.—Defence of Suits.

Notices of actions how to be dealt with.

7. Section 424 of the Civil Procedure Code requires that suits against Government or Government officers should be preceded by a notice* to be left either with a Secretary to Government, or with the officer concerned. When a notice of this kind is received by a Secretary to Government it will be at once forwarded to the officer principally concerned in, or cognizant of the matter respecting which an action is threatened.

The officer receiving any such notice, whether from a Secretary to Government, or direct from the complainant, should give it immediate and careful attention. The complainant should be desired, when his complaint is vague in the statement of the alleged right or alleged infringement of this right, or of the officer whose acts are impugned, to set these points forth succinctly and clearly, as the most effectual means towards obtaining such relief as may properly be given. Should it prove impossible to

* *N.B.*—A notice printed in a newspaper containing other matter does not satisfy the requirements of section 424, C. P. C. (*See* B. H. C. P. J., 1881, p. 286.)

A public officer is entitled to notice only in those cases in which he is sued for damages for some wrong committed by him in the discharge of his duty. (I. L. R., 7 C., 499.) But all suits against the Secretary of State in Council require a notice.

obtain a lucid and definite statement of the complainant's case in this way he should be examined orally as to all important points, and his answers should be taken down in writing, and verified by his signature, or by a memorandum that the paper was read over to the complainant and assented to by him. The documents above referred to should in every case be carefully preserved, together with any that the complainant may produce in support of his claim or complaint.

Examination of the grounds of complaint.

8. The conduct or act complained of may have been either (1) wholly indefensible, (2) justifiable or (3) of a mixed or doubtful character.

In every case the officer receiving the notice should endeavour, without prejudice, to determine to which of these classes it is to be assigned.

If it is indefensible, it is his duty to do what lies in his power to give immediate redress, or to obtain it by a full report to the proper authorities.

If the complaint is plainly groundless or if the threatened action is one which must undoubtedly be defended, if it is brought, no further notice need be taken of the complaint, but the officer concerned should at once proceed, as far as possible, to collect the information and papers which will be afterwards required under Rules 11 and 12.

The chief difficulty arises in the third class of cases; and in these the officer receiving the notice should use every possible effort to distinguish between acts which have been properly done in the discharge of a public duty and those in which, through carelessness, ignorance, or imprudence, some real cause for complaint has been given. Such analysis will, in the majority of cases, reduce these acts under one of the two heads already considered, and they should then be dealt with accordingly. Where there is a doubt as to the real intention of the Government or of a superior authority in any order, the carrying out of which has occasioned the complaint, that doubt should be cleared up by an immediate reference. When there is a doubt as to the legality of the act complained of, though in apparent fulfilment of a rule or order, issued by a superior authority, a clear statement of the case should be submitted for orders to be issued after the opinion of the law officers shall, if necessary, have been obtained.

Pending references in cases falling under either the first and third head, the complainant should be informed that some delay is requisite for the proper disposal of his complaint, and, when instructions have been received, he should be at once informed of what is to be done; but every endeavour should be made to have the matter disposed of within the period of two months from the delivery of the notice allowed by the Civil Procedure Code before the threatened action can be instituted.

Preliminary steps when summons is served on Government Pleader.

9. When a suit has been instituted, if it is against Government and the summons is therefore served on the Government Pleader, he shall *at once* procure an *uncertified* copy

of the plaint and forward it and the copy of the summons received by him (with the date of its receipt by him noted on the back) to the officer who himself, or by his subordinates, is alleged to have given rise to the plaintiff's cause of action.

If the plaint relates to the acts of two or more officers, the Government Pleader shall communicate as above with the principal of such officers.

Preliminary steps when summons is served on an officer personally.

10. If, owing to the suit being against an officer in his official capacity, the summons is served on that officer personally, he shall *at once* forward a *vakálatnáma* to the Government Pleader (unless the Government Pleader already holds a general power-of-attorney from him), and procure from him an *uncertified* copy of the plaint.

Officer concerned to collect information.

11. The officer to whom the Government Pleader refers under Rule 9, and any officer who is sued in his official capacity, and who desires that Government should undertake the defence of the suit, shall collect, with the least practicable delay, all the information regarding the facts of the case which he can procure.

Papers to be submitted to Head of Department.

12. He is then, within one month from the date of his being first apprized of the institution of the suit, to submit the following papers, through the ordinary channel of communication, to the head of his department (namely) :—

(*a*) a copy of the plaint in the vernacular ;

(*b*) a translation of the same into English in half margin, the more important of the statements therein being distinctly marked with letters (*a*), (*b*), &c., and notes being added in the margin stating whether such statements are correct or not, and if not, in what respect they are inaccurate : (when the requisite explanation cannot be thus compressed, reference should be made to the para. of the accompanying statement in which the matter should be fully discussed) ;

(*c*) a full and detailed statement (1) of the circumstances which led to the suit, (2) of the course which it is proposed to adopt, namely, whether to admit, compromise, or defend the suit, and of the reasons for the same, and (3) if it is proposed to defend the suit, of the grounds on which it is proposed to base the defence, and of the evidence to be adduced ;

(*d*) if the case turns on documentary evidence, copies of the documents (or the originals) relied on by the plaintiff (if procurable) and by the defence ;

(*e*) all the correspondence and written proceedings, whether in English or in the vernacular, connected with the subject-matter of the suit.

The forwarding report should state distinctly (1) the number of the suit, (2) the date on which, and

the Court in which, it was instituted, (3) the names of all the parties, (4) the amount or value of the claim, (5) the date fixed by the Court for the first hearing, and (6) whether notice of the action has been given under section 424 of the Civil Procedure Code, and if so, the date of delivery of such notice.

Applications for adjournments pending receipt of orders.

13. If the suit is against an officer in his official capacity he shall instruct the Government Pleader to move the Court, from time to time, to grant an extension of the time for hearing the claim, under section 423 of the Civil Procedure Code, until the orders of Government are received. In the case of suits against Government, the Government Pleader shall make the necessary applications to the Court for time, under section 420 of the Code, without express instructions. If in any instance the Court is likely to decline to grant further time, it is the duty of the Government Pleader to inform the officer concerned in the defence of the suit, and in emergent cases, the Remembrancer of Legal Affairs.

Procedure when two or more officers are jointly concerned in a suit.

14. If two or more officers belonging to different departments are sued conjointly, or if the plaint in a suit against Government relates to the acts of two or more such officers, they should, with the least possible delay, communicate one with the other, and after, if possible, mutual consultation with a view to a common line of defence, arrange for the preparation of a joint report. When a joint report is not sent, a separate report should be submitted simultaneously by each officer, care being taken by the officer principally concerned that all the requirements of Rule 12 are complied with.

Applicability of Rules 3, 4 and 5.

15. The provisions of Rules 3, 4 and 5 relating to the institution of suits on behalf of Government shall apply, *mutatis mutandis*, to reports submitted under Rule 12.

Duty of Government Pleader when defence of suit is sanctioned.

16. If the defence of a suit against Government is sanctioned, or if Government undertakes the defence of a suit against an officer in his official capacity, the written statement to be filed in answer to the plaint shall be subscribed and verified by the Government Pleader whose duty it is, under sections 420 and 426 of the Civil Procedure Code, to "answer to the plaint," and in the case of a suit of the latter class the Government Resolution sanctioning the defence is to be deemed to be the Government Pleader's "authority to appear and answer the plaint," and he shall at once on receipt thereof move the Court to cause a note of his authority to be entered in the register, but shall not produce such Resolution in Court.

Preparation of defence.

17. The written statement and the issues sought on behalf of Government are ordinarily to be in strict ac-

cordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government; but the Government Pleader is responsible in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.

III.—Conduct of Suits.

Government Pleader's duties whilst a suit is under trial.

18. The responsibility for the conduct of a suit in accordance with the opinion of the Remembrancer of Legal Affairs, so far as concurred in by Government, shall rest with the Government Pleader unless special counsel is appointed on behalf of Government; and it is the duty of the Government Pleader, during the progress of the suit, to consult the Remembrancer of Legal Affairs on all matters connected with it as to which he experiences any difficulty or doubt, and especially in respect of any interlocutory order made by the Court, on any application of the opposite party, which seems to require particular instructions.

If special counsel is appointed, it is the duty of the Government Pleader, subject to the orders of the Remembrancer of Legal Affairs, to instruct him, and, when necessary, to prepare his brief, and generally to aid him in the conduct of the case.

Collector or other Officer to furnish information and prepare evidence.

19. In cases connected with the departments under the control of the Collector and Magistrate of the district, it is his duty, or that of any subordinate whom he may specially depute for the purpose, and in cases connected with any other department, it is the duty of the officer who proposed the institution, or who sought the sanction of Government for the defence, of the suit (as the case may be), to ascertain that the Government Pleader, or special counsel, is thoroughly acquainted with the facts of the case, and with the evidence to be adduced in support of the claim, and to see that the necessary evidence, whether oral or documentary, is ready by the proper time. The Government Pleader must keep the Collector, or other officer, informed on all points on which his co-operation is necessary, and report, with the least possible delay, if any further evidence, or information, is required, moving the Court, if necessary, from time to time to postpone the case, or adjourn the hearing.

An officer to be present at the trial to aid the Government Pleader.

20. When a suit is under trial, some intelligent officer thoroughly conversant with the facts of the case should be deputed to be present to instruct the Government Pleader as to the truth concerning matters which arise unexpectedly, and to direct his attention to the documents, or other evidence, that may become important, at each stage of the trial. In important cases, and in *every* case in which special

counsel is retained, an Assistant or Deputy Collector, or an officer of similar rank should be deputed for this purpose.

Settlement of differences of opinion.

21. Should there be a difference of opinion between the Government Pleader or special counsel and the Collector or other officer at whose desire the suit has been instituted or defended, as to the manner of conducting the case, or should the opinion of the Remembrancer of Legal Affairs prove unintelligible on any point, or open to objection, the Remembrancer of Legal Affairs shall at once be communicated with in order that the difficulty may be settled. Should there eventually be an irreconcileable difference of opinion between the Collector or other officer and the Remembrancer of Legal Affairs, a reference shall forthwith be made by the latter to Government.

Important points respecting the conduct of suits.

22. The following important points relating to the conduct of all suits should be carefully attended to by Government Pleaders and all officers concerned (namely) :—

(*a*) the averments in a plaint, or in a written statement, should generally be based in every material point on the proof which can be adduced in support of them ;

(*b*) the evidence, whether oral or documentary, on which it is intended to rely should be carefully scrutinized by the Government Pleader *before* it is adduced, and he should advise as to its admissibility, and probable importance, or unimportance, for the purposes of the suit, and suggest what evidence, if it be forthcoming, may with advantage be substituted for that which, in his opinion, would be weak or inadmissible ;

(*c*) all the available evidence should be assiduously collected and made ready for the day fixed for its reception, and the necessity of making applications for adjournment should, as much as possible, be avoided, and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be resisted as tending to prolong the litigation, and to give opportunities for the fabrication of false evidence ;

(*d*) all documentary evidence should be ready and be produced at the first hearing of the suit, (*i.e.* the day fixed for the settlement of issues), as required by section 131 of the Civil Procedure Code, and when a suit is instituted, the documents sued upon should be produced in Court when the plaint is presented, together with copies thereof, as required by sections 59 and 62 of the Code, and the list of other documents relied upon as evidence, which is required by section 59 to be annexed to the plaint should be very carefully prepared. Applications to the Court to accept any document in evidence, at any subsequent stage of the trial, should, unless under special circumstances, be avoided, as such applications cannot be granted without the

grant of similar indulgence to the opposite party, which may place Government at a disadvantage, and should be resisted, as holding out a temptation to forgery;

(*e*) documents filed by the opposite party should be carefully examined at the earliest opportunity, and compared with originals in the Government records, or with other papers which tend to establish, or subvert, their authenticity;

(*f*) the *production* of documents in the possession of Government or of any Government officer when lawfully required by the Court, or by the opposite party, should not be resisted unless for good and sufficient reasons such as are recognized by law; but the question of the *admissibility* of the documents, when produced, should be carefully considered, and argued, it being borne in mind that the opinions of individual officers contained in official correspondence (which is so often called for by persons engaged in litigation with Government in order to establish their case) are, as a rule, not admissible in evidence;

(*g*) the object of Government in sanctioning either the institution, or defence, of any suit is simply to establish the truth; and whilst Government expect the utmost vigilance and care on the part of those entrusted with the conduct of litigation on their behalf in asserting and protecting their just interests, they would impress upon pleaders who have the charge of cases that they will not countenance any attempt to snatch an unfair advantage by the withholding of important evidence, or by any disingenuous proceeding whatever.

Decision to be reported at once by Government Pleader.

23. As soon as a suit is decided, the Government Pleader shall communicate the nature of the decision to the Collector, or other officer concerned, giving, in important or interesting cases, a brief statement of the grounds thereof. A duplicate of the Government Pleader's report shall be at once forwarded by him direct to the Remembrancer of Legal Affairs.

Government Pleader to obtain and forward copies of judgment and decree.

24. The Government Pleader shall then obtain with as little delay as possible two copies, one certified and the other uncertified, of the Court's judgment, and one certified copy of its decree. The certified copies of the judgment and decree he shall forward to the Collector or other officer concerned; the uncertified copy of the judgment he shall forward to the Remembrancer of Legal Affairs direct.

Procedure when decision is entirely in favour of Government.

25. If the decision is entirely in favour of Government, the copies may be forwarded by the Government Pleader according to the last rule without comment, and the Collector or other officer shall communicate the result of the suit to the head of his department, sending him a copy of the judgment, or not, as,

under the circumstances of the case, he thinks fit. The result need not be communicated by the head of the department to Government unless he is of opinion that for special reasons it is desirable to do so, in which case he shall submit his report to Government through the Remembrancer of Legal Affairs.

The general results of all litigation will be communicated to Government by the Remembrancer of Legal Affairs in his annual report.

IV.—Appeals.

In case of adverse decision Government Pleader to report whether he recommends an appeal.

26. If the decision is either wholly or partially adverse to Government the Government Pleader, when forwarding copies of the decree and judgment to the Collector or other officer concerned, shall state his opinion, with reasons, as to whether an appeal should be brought.

Collector or other officer to report to the Legal Remembrancer.

27. The Collector or other officer, after perusing the judgment, shall call upon the Government Pleader to send him uncertified copies of such of the exhibits recorded in the case as he deems necessary to explain the grounds of the decision so far as it deals with the merits of the case (or in important cases, of *all* the material exhibits), and shall forward them, together with the certified copies of the judgment and decree already received from the Government Pleader, with a report, stating his opinion as to whether the decision should be acquiesced in or appealed against, direct to the Remembrancer of Legal Affairs.

Time within which report must be made.

28. This report must be despatched so as to reach the Remembrancer of Legal Affairs within *fifteen days* after the date of the decree, in cases in which an appeal lies to the District Judge, and within *one month* after the said date in cases in which an appeal lies to the High Court.*

Duty of head of department.

29. A copy of the report shall be sent simultaneously to the head of the department, who, if he concurs in it, will merely file it, but if he differs from it, or considers it otherwise necessary to address Government on the subject of it, shall submit a separate report on it without delay to Government through the Remembrancer of Legal Affairs.

Legal Remembrancer to report to Government.

30. The Remembrancer of Legal Affairs, after calling for such further information, or additional papers, as he thinks necessary, shall report his opinion to Government as to whether an appeal should be made or not, or as to what other course should be pursued. His report must be despatched in time to enable the orders of Government upon it to be acted upon, if

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* In Rules 28, 32, 37 (2), 41, 42, 43, 44, 45, 47, 48, 49 & 71, of the Sind Rules, substitute "Sadar Court" for the words "High Court."

necessary, within the period prescribed by law for filing an appeal.

The report of the Collector or other officer, and, if any have been received, that of the head of the department also, should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs, pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

Papers to be recorded in the Legal Remembrancer's Office.

31. The report of the Collector, or other officer, and of the head of the department, if any, and all other documents which accompany the report of the Remembrancer of Legal Affairs to Government, will be returned to him with the order of Government for record in his office.

Procedure if an appeal is sanctioned.

32. If an appeal be sanctioned the Collector, or other officer, will instruct the Government Pleader in the District Court, or in the High Court,* accordingly, at the same time sending him a *vakálatnáma* (unless the Government Pleader already holds a general power-of-attorney from him), if the suit is against him personally. If the appeal has to be made to the District Judge, the Remembrancer of Legal Affairs will return the copies received by him, under Rule 27, to the Collector, or other officer, who shall make them over to the Government Pleader for his use in the appeal. If the appeal has to be made to the High Court, the said copies shall be sent by the Remembrancer of Legal Affairs direct to the Government Pleader in that Court, and it shall be the duty of the Collector, or other officer, in consultation with the District Government Pleader, to send to the Government Pleader in the High Court,* with the least practicable delay, copies of all the remaining material exhibits and other papers connected with the suits for his information and guidance.

Preparation of memorandum of appeal.

33. Appeals are ordinarily to be based strictly on the grounds recommended by the Remembrancer of Legal Affairs and concurred in by Government; but when an appeal is sanctioned generally against a decision, the Government Pleader is responsible for availing himself of all legitimate grounds on which the decree may be open to objection, notwithstanding that any of them may have escaped the notice of the Remembrancer of Legal Affairs, or not have been mentioned by him.

In important or intricate cases the memorandum of appeal should be submitted to the Remembrancer of Legal Affairs for approval before being filed in Court.

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* *Vide* note to rule 28.

Procedure when an appeal is brought by opposite party.

34. If an appeal is brought by the opposite party against a decision either entirely, or partly, in favour of Government, a notice of the appeal will be served by the Court either on the Government Pleader or on the officer concerned. In the former case the Government Pleader shall at once obtain an *uncertified* copy of the memorandum of appeal, and forward it and the notice received by him (with the date of its receipt noted on the back) to the Collector or other officer concerned, or to the principal of the officers concerned. In the latter case the officer concerned shall at once send the Government Pleader a *vakálatnáma* (unless the Government Pleader already holds a general power-of-attorney from him), and obtain from him an *uncertified* copy of the memorandum of appeal.

Collector or other officer to report as to the defence.

35. The Collector or other officer concerned shall then carefully compare the grounds of appeal with the Court's judgment, and after consultation, if necessary, with the District Government Pleader, report his opinion as to whether the appeal should be defended, and make any explanation or remarks that may be needed with reference to the grounds of appeal. His report should be submitted to the head of his department and be accompanied by the same documents as are required to accompany a report under Rule 27.

Report to be referred by Head of Department to Legal Remembrancer.

36. The Head of the Department shall refer the report, with his own opinion, to the Remembrancer of Legal Affairs, and the provisions of Rules 30, 31 and 32 shall then apply, *mutatis mutandis*, to the said report and its accompaniments, and to the Remembrancer of Legal Affairs with regard to his duty in respect thereof, and to the instruction of the Government Pleader, if the defence of the appeal is sanctioned by Government.

Applicability of Rules 18, 19, 20 and 21 to appeals.

37. The provisions of Rules 18, 19, 20 and 21 apply equally to the conduct of appeals as to the conduct of original suits except—

(1) that a discretion must be exercised by the Government Pleader in meeting new points raised for the first time in appeal, but that he should apply for an adjournment to enable him to advise with the officer concerned, or with the Remembrancer of Legal Affairs, if necessary, on any such points in which he may not have been fully instructed, or to which he is not able to furnish an immediate reply;

(2) that it is only necessary to depute an officer to be present to assist the Government Pleader in the High Court * when express orders are received from Government to that effect.

* *Vide* note to rule 28.

38. When two or more officers of different departments are concerned in a case in which an appeal is desired on behalf of Government, or in which an appeal is brought by the opposite party, the foregoing duties will devolve on the principal of such officers, subject, as far as may be, to the provisions of Rule 14.

Procedure when two or more officers are concerned in an appeal case.

39. When an appeal has been decided by a District Court, the provisions of the Rules 23, 24 and 25 shall be observed so far as they are applicable, just as in the case of the decision of an original suit.

Applicability of Rules 23, 24 and 25 to decisions in appeals.

V.—Second Appeals.

40. When an appeal from an original decree has been decided by a District Court, either wholly or partially adversely to Government, the same course is to be pursued with respect to the bringing of a second appeal as in the case of an appeal from an original decree, provided that if the Remembrancer of Legal Affairs is clearly of opinion that the case is one in which the law allows no second appeal, it shall not be necessary for him to refer it for the orders of Government, and the result of the first appeal need not be communicated to Government unless the head of the department, or the Remembrancer of Legal Affairs, is of opinion, for special reasons, that it should be. If the head of the department communicates the result of an appeal to Government under this rule, he shall submit his report to Government through the Remembrancer of Legal Affairs.

Procedure when an appeal has been decided adversely by a District Court.

41. When a second appeal is brought against an appellate decree either wholly or partly in favour of Government, the same course shall be pursued as when an appeal is brought in the High Court* against a similar original decree.

Procedure when a second appeal is brought against an appellate decree in favour of Government.

42. When an appeal has been decided by the High Court,* whether against an original or appellate decree, the Government Pleader shall communicate the nature of the decision, as soon as it is pronounced, to the Remembrancer of Legal Affairs, giving a brief statement of the grounds of the decision.

(Notn. No. 2895, *B. G. G.*, 1893, p. 425.)

High Court's decision in an appeal how to be reported.

He shall then obtain, with as little delay as possible, two *uncertified* printed copies of the Court's written judgment, if any, and forward one to the Remembrancer of Legal Affairs, and one, with the papers in the case, to the Collector or other officer

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* *Vide* note to Rule 28.

concerned. * If the Court records no written judgment, the Government Pleader shall inform the Collector or other officer to that effect and return the papers. The Collector, or other officer, shall inform the head of his department of the result of the case, sending him a copy of the written judgment, if any, or not, as he deems necessary.

The Remembrancer of Legal Affairs shall communicate the result of any such appeal to Government only when he thinks necessary, in special cases submitting a copy of the written judgment also, if any have been recorded; but, as a general rule, he should confine himself to mentioning the different cases and their results in his annual report. Nor need the result of any such appeal be communicated to Government by the head of the department unless the decision appears to him to be specially inconvenient, or to affect the administration in some unusual manner, in which case he shall forward his report to Government through the Remembrancer of Legal Affairs.

VI.—Appeals to Her Majesty in Council.

Applications for permission to appeal how to be dealt with.

43. Applications under Chapter XLV of the Civil Procedure Code for permission to appeal to Her Majesty in Council, whether in behalf of or against Government, shall be dealt with generally under the same rules as are applicable to appeals to the High Court.†

When permission has been granted, selection of exhibits for transcript of record to be made by Government Pleader.

‡44. When the High Court† has granted a certificate that a case is a fit one for such appeal, the Government Pleader in that Court shall take steps for selecting the exhibits to be included in the transcript of the record in accordance with No. 6 of the rules published by the High Court on the 23rd February 1870 (*vide B. G. G.* for 1870, p. 167) referring for instructions in all matters of doubt to the Remembrancer of Legal Affairs.

Preparation of transcript of records to be supervised by the Government Pleader.

45. When the High Court† has declared the appeal admitted under Section 603 of the Civil Procedure Code, the Government Pleader shall at once inform the Remembrancer of Legal Affairs, and, so far as permitted by the rules of the Court, shall give his careful attention to the preparation of the transcript of the record and see that it contains copies of all the documents necessary on behalf of Government, and that it is conveniently arranged and indexed.

Statement of case to be prepared by Legal Remembrancer.

46. On receipt of intimation that an appeal has been declared admitted, the Remembrancer of Legal Affairs shall prepare a statement—

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* The Sind Rules omit in No. 42 the words "If the Court records," to "return the papers."

† *Vide* note to rule 28.

‡In the Sind Rules omit in No. 44 the words from "in accordance with" to "p. 167."

(1) embodying the facts of the case,

(2) explaining the reasons on which further prosecution of the suit is recommended,

(3) setting out the principal points insisted upon for the Government in the Courts of this country, and

(4) adding such observations upon the past conduct of the case and upon the judgments of the Courts in this country as will conduce to an understanding and proper representation of the Government case at the hearing of the appeal.

Statement to be submitted to the Advocate General for his revision.

47. If the Advocate General has appeared in the case before the High Court* on behalf of Government, the above statement shall be signed by him as well as by the Remembrancer of Legal Affairs and shall contain their joint opinion as to the precise legal grounds on which the appeal should be argued. If the Advocate General has not appeared in the case, the Remembrancer of Legal Affairs shall forward the statement to the Solicitor to Government, who will submit it to the Advocate General for his opinion as to the soundness of the arguments relied upon for Government and for his advice generally.

Statement to be printed.

48. The said statement, together with the opinion of the Advocate General, if it is recorded separately, shall then be printed under the superintendence of the Solicitor to Government so as to be ready by the same time that the transcript of the record is likely to be transmitted by the High Court* to the Privy Council. The Government Pleader shall keep the Remembrancer of Legal Affairs and the Solicitor to Government informed as to when the transcript will probably be transmitted.

Duty of Government Pleader when transcript record has been transmitted to the Privy Council.

49. As soon as the Government Pleader has ascertained that the transcript of the record has been transmitted by the High Court* to the Privy Council, he shall inform the Solicitor to Government and at the same time forward to him twenty-two printed copies of the transcript record, if the same is printed in India, under the provisions of Section 602 of the Civil Procedure Code.

Solicitor to Government to submit papers to Government for transmission to England.

50. The Solicitor to Government shall then without delay submit twenty printed copies of the transcript and of the statement (printed in accordance with Rule 48) to Government, namely, ten for the records of Government and ten for transmission to the Secretary of State with a view to the Solicitors of the India Office being duly instructed. He shall also send one printed copy of the transcript and one of the statements to the Remembrancer of Legal Affairs for his records.

* *Vide* note to rule 28.

51. If the transcript of the record is not printed in India, the Government Pleader shall apply, through the Remembrancer of Legal Affairs, for the instructions of Government as to the number of the authenticated manuscript copies to be prepared in lieu of printed copies, for the purposes of the last two rules.

Preparation of manuscript copies when transcript of manuscript is not printed in India.

VII.—Execution of Decrees.

52. Whenever it has been determined not any further to contest a decision which is either wholly or partly adverse to Government, the Collector, or other officer concerned, shall at once instruct the Government Pleader to pay into the Court, whose duty it is to execute the decree, all moneys payable under the decree, care being taken that the decree is fully satisfied within the time fixed for its satisfaction under section 429 of the Civil Procedure Code.

Settlement of adverse decrees.

53. Immediately on a decree being given in favour of Government, the Collector, or other officer concerned, is to proceed, in consultation with the Government Pleader, to take steps for the recovery of costs and of the amount, if any, decreed, unless for special reasons (which he should report through the head of his department to the Remembrancer of Legal Affairs for the orders of Government) he deems it undesirable that any such step should be taken, or that they should be taken immediately.

Procedure to obtain execution of a decree in favour of Government.

54. If any appeal is instituted, and the execution of the decree is stayed by order of the Court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgment-debtor.

Procedure in case of appeal.

55. When the officer concerned is not the Collector, or a subordinate of the Collector, he may apply to the Collector to assist him in prosecuting the necessary inquiries as to the property of the judgment-debtor.

Collector to render assistance when any other officer is concerned.

56. The provisions of section 545 of the Civil Procedure Code are ordinarily sufficient to prevent any fraudulent disposal of property by the judgment-debtor during the time gained by an appeal; but the Government Pleader, in communication with the Collector, or other officer concerned, shall see that the security taken by the Court is sufficient, petitioning the Court, if he considers that the security offered is not valid, or sufficient, to be allowed to execute the decree at once.

Security when execution is stayed.

57. If such application is refused, the Collector, or other officer, should endeavour to keep a watch on the property of the debtor, so as to prevent any fraudulent alienation or concealment of it.

Prevention of fraudulent disposal of property.

58. District Government Pleaders shall send to the Remembrancer of Legal Affairs, on the 1st January, 1st April, 1st July, and 1st October, through the Collector, a quarterly return, in the following form, showing the progress made in realizing amounts due under decrees to Government in the districts to which they are respectively appointed :—

Quarterly return to be sent by Government Pleaders to the Legal Remembrancer.

Name of Court, and Number and Year of Suit.	Parties' Names.		Amount to be realized.			Amount realized.			Balance yet to be recovered.	Remarks.
	Plaintiff.	Defendant.	Amount of Claim decreed.	Amount of Costs decreed.	Total.	Previously.	During the Quarter under report.	Total.		

In the column of remarks, any reasons for delay, or for want of progress in the recovery of dues, should be fully explained; and when any sums are considered to be absolutely irrecoverable, the Collector, or other officer, shall report the amount to the Remembrancer of Legal Affairs, who shall submit the same to Government for orders. If Government direct any such sum to be written off as irrecoverable, it need no longer be shown by the Government Pleader in his quarterly return. (Notn. No. 7088, *B.G.G.*, 1886, p. 1020.)

59. Should the Remembrancer of Legal Affairs consider the progress made in the recovery of moneys due to Government under decrees unsatisfactory, he shall bring the matter to the notice of Government.

Legal Remembrancer to report to Government if satisfactory progress is not made in recovery of dues.

60. Any sum due to Government under a decree may, if convenient, be recovered otherwise than through the agency of the Courts; but the Government Pleader should be instructed, under section 258 of the Civil Procedure Code, to certify every such recovery to the Court.

Recoveries out of Court.

Whenever any money is recovered on behalf of Government in execution of a decree, the Government Pleader shall pay the amount into the treasury to the credit of the department concerned, and intimate the fact to the Head of the Department. (Notn. No. 5631, *B.G.G.*, 1887, p. 821.)

61. The practice of deputing Government servants to bid on behalf of Government at Court's auctions with a view of purchasing the property of judgment-debtors by whom money is due to Government is, generally speaking, objectionable, as it is likely to involve Government in much litigation of a doubtful character, and it should never be resorted to, unless with the special sanction of Government, to be obtained through the Remembrancer of Legal Affairs.

Purchase of judgment-debtor's property for Government forbidden.

VIII.—Suits by Paupers.

Proceedings under sections 408 and 414 of the Civil Procedure Code by whom to be taken.

62. Notices of the day fixed by any Court under section 408 of the Civil Procedure Code for receiving evidence as to an applicant's alleged pauperism, and applications under section 414 of the Code for dispaupering a plaintiff, should be respectively received and made by the District Government Pleaders in the case of any Court situated at his head-quarters, and by the Subordinate Government Pleader appointed for the Court in the case of any other Court.

Government Pleaders how to proceed under section 408.

63. Government Pleaders need not busy themselves about calling evidence in *every* case in which a notice is served upon them under section 408. But on receipt of any such notice they should at once communicate with the *Mámlatdár or Mahálkari of the táluka or mahál in which the applicant resides.

If such officer, after inquiry, informs him that the applicant is a pauper within the meaning of section 401 of the Code, he need take no further steps in the matter. But if such officer considers that the applicant is not a pauper, he should collect such evidence as he is able in disproof of his alleged pauperism, and instruct the Government Pleader, who will then appear on the day fixed for the hearing, and oppose the application under section 409.

And under section 414.

Applications to dispauper a plaintiff under section 414 will be made by a Government Pleader only under express instructions; but it is the duty of Government Pleaders to communicate to the Mámlatdár or Mahálkari any fact which at any time comes to their knowledge which appears to render it desirable that such an application should be made.

IX.—Miscellaneous.

(Notn. No. 6381, *B. G. G.*, 1879, Pt. I., p. 856.)

Government Pleader to keep a Register of decrees for recovery of pauper costs.

63*A*. As soon as a Government Pleader receives from the Court a copy of a decree directing payment of pauper costs, he shall enter the particulars thereof in a Register which he shall keep for this purpose in the following form :—

Consecutive No. of entry.	Date of receipt of Decree from Court.	Name of Court which passed the Decree.	No. and year of Suit or Appeal.	Names of parties.	Substance of orders as to payment of pauper costs.	Pauper costs recoverable.	
						Parties liable.	Amount
1	2	3	4	5	6	7	8

*In No. 63 the Sind Rules read "Mukhtyárkar" for "Mámlatdár or Mahálkari" and omit the word "mahál."

RECOVERIES.			WRITTEN OFF AS IRRECOVERABLE.		Total of Columns 11 and 13.	REMARKS.
How recovered.	Date.	Amount.	No. and date of Government Resolution.	Amount.		
9	10	11	12	13	14	15

63*B*. If the party liable to the payment of any such costs or his Pleader is known to the Government Pleader and is readily accessible to him, he shall endeavour to recover the amount due from him at once, and forward the copy of the decree with a report of his proceedings to the Collector.

Government Pleader how to proceed with a view to the recovery of pauper costs under a decree of Court.

If the amount due, or any portion of it, cannot be thus recovered, the Government Pleader shall, without delay, forward the copy of the decree to the Mámlatdár of the táluka in which the person liable for the amount due has his residence.

63*C*. On receipt of a copy of a decree under the last Rule the Mámlatdár shall make inquiries as to the property and means of the person liable, and, if possible, obtain from him the amount due, or such portion thereof as he is able to pay.

Steps to be taken by Mámlatdár to whom the Government Pleader sends any such decree.

If the Mámlatdár obtains any payment either at this, or at any subsequent time, he shall inform the Government Pleader of the amount thereof.

63*D*. If the Mámlatdár is unable to obtain any payment from the person liable for the same, or obtains only a portion of the whole amount due, he shall forward the copy of the decree together with all the information he is able to procure as to the property of the said person, and as to the probability of his being able to pay what is due by him, either at once or at any time thereafter within the period of limitation, to the Collector for orders.

Report when to be made by Mámlatdár to Collector.

63*E*. The Collector shall, thereupon, in consultation, if necessary, with the Government Pleader, issue such orders as to the making of an application in Court for the recovery of the amount due, or otherwise, as he thinks fit.

Steps to be taken by the Collector on receipt of such report.

If it shall appear altogether improbable that the person liable will be able to pay what is due by him under the decree, or the balance of what is so due by him within the period of limitation, or if for any reason the Collector shall think it inexpedient that such person should be further pressed, he may at once apply to Government under Rule 58 for sanc-

tion to write off the amount still due, but as a general rule steps for the recovery of pauper costs should be unremittingly continued until the period of limitation expires when, if necessary, application should be made by the Collector as aforesaid under Rule 58.

General duties of Government Pleader in respect of the recovery of pauper costs.

63*F*. If the decree under which pauper costs are recoverable awards to the person liable for the same any money, or other property, the Government Pleader shall carefully watch the execution of such decree and at the proper time enforce the prior right of Government in respect of any such money or other property.

It shall also be the duty of the Government Pleader at all times to furnish the Collector or Mámlatdár with any information which comes to his knowledge, the possession of which is likely to facilitate the recovery of the monies due to Government, and when the period of limitation for the execution of any decree is nearly expiring without such decree having been fully satisfied, he shall specially report the fact to the Collector.

Government Peaders' Register to be written up from time to time, and Quarterly Returns submitted under Rule 58 to contain particulars of realizations of pauper costs.

63*G*. When Government sanction the writing off of any pauper costs as irrecoverable the particulars of the Resolution shall be communicated by the Collector to the Government Pleader.

The Government Pleader shall make the requisite entries in columns 9—13 of the Register kept by him under Rule 63*A* from time to time as he himself recovers, or obtains information of the recovery, or writing off of the pauper costs due in respect of each decree entered in the Register.

The Quarterly Return forwarded to the Remembrancer of Legal Affairs by District Government Pleaders under Rule 58 shall show separately the progress made in realizing amounts due to Government under decrees on account of pauper costs and in realizing amounts so due on any other account, and to enable the District Government Pleaders to make complete returns, each Subordinate Government Pleader shall submit to the District Government Pleader to whom he is subordinate a return in the same form and on the same dates as are prescribed in Rule 58 for the returns to be prepared by the latter.

Copies of documents on Government records when to be granted.

*64. Copies of documents on the Government records are often applied for as a means of supporting a claim either before or after the commencement of a suit against Government. Such copies should be furnished when the documents are of a public character and are pertinent to the case for which they are required

*In Sind Rules Nos. 64 to 73 are given under the heading "IX.—Miscellaneous."

Copies of confidential communications, as those between Government and an officer or between one officer and another dealing with particular transactions or the rights or duties of individuals, should not in general be given. Vague and fishing applications for copies should be rejected. In cases of doubt the proper criterion to apply is that of whether, if a copy is refused, the original may properly be called for by the Court, or whether such a call may properly be resisted according to the principles of sections 123 and 124 of the Indian Evidence Act. When there is a right to inspect, it must be borne in mind that section 76 of the same Act gives a right to a copy. Every copy taken, or its original, should be carefully considered by the Government Pleader, for whose perusal it will be submitted by the officer making the copy.

Production of documents against the public interest.

65. When documents in the charge of a head of a department are called for by a Court, he should consider whether they include communications made in official confidence, the production of which will be injurious to the public interest. To the production of such documents he should object, as falling within the principles of section 124 of the Indian Evidence Act, and he will be careful to prevent his subordinates transgressing this rule upon summons directed to them personally, instead of to himself, in whom the custody of the documents is vested, and without whose orders subordinates are not at liberty to remove or otherwise deal with the documents of the department.

Miscellaneous civil proceedings.

66. If it appears advisable to a Collector, or other officer, to intervene in any suit to which Government have not been made a party, or, if he shall deem it necessary to institute, or shall be called upon to defend, any miscellaneous civil proceeding on behalf of Government, the rules prescribed for regular suits in all their stages shall, *mutatis mutandis*, be deemed applicable, provided that in cases of emergency the Collector or other officer may act in anticipation of the order of Government, but shall at once report his proceedings through the channel prescribed by the said rules.

Land acquisition cases.

67. Cases which are referred to the Civil Court under section 15 of the Land Acquisition Act X of 1870 need not, as a general rule, be referred under the foregoing rules to Government, through the Remembrancer of Legal Affairs for orders, but the Remembrancer of Legal Affairs may be consulted direct on any points that may arise in respect of such cases involving legal doubts or difficulties.

Compromises.

68. No suit, or other civil proceeding, is to be settled out of Court or compromised in Court, by any officer of Government, without the express orders of Government to be obtained through the Remembrancer of Legal Affairs, after submitting full explanation of the course proposed to be adopted.

Correspondence and Government Resolutions to be deemed strictly confidential.

69. All correspondence and all Resolutions of Government on the subject of suits, or other civil proceedings are to be regarded, by all officers of Government and by all pleaders into whose hands they may come, as *strictly confidential*. No public officer shall grant copies of any such correspondence or Government Resolution during the pendency of the suit or civil proceeding, or until after its final decision by the highest Court before which it is likely to be brought, for any reason whatever, and no such copies shall be granted at any time after such final decision without the previous sanction of the head of the department.

Legal Remembrancer's records.

70. The Remembrancer of Legal Affairs is to keep in his office complete records of all the correspondence connected with every suit or other civil proceeding in which Government, or any Government officer, is concerned. Rules 5, 15, 31 and 36 have been framed with a view of facilitating this purpose, and where the rules do not expressly make provision to that effect, it is to be understood that all original correspondence on the subject of such suits or proceedings is eventually to be returned to the Remembrancer of Legal Affairs for record.

General powers of attorney.

71. Collectors and other officers, who are frequently concerned in suits, or other civil proceedings, should furnish the Government Pleader in the High Court,* and the Government Pleader of the district in which such suits, or other proceedings, originate, with a general power of attorney.†

Copies of papers.

72. When the exhibits in an original suit, or other proceeding, are so numerous or so important as to necessitate a District Government Pleader's obtaining copies thereof for his own use, or for that of special counsel, and whenever a District Government Pleader for any reason whatever obtains copies of any such exhibit, he shall take care to have them legibly written on one side only of the paper, with a quarter margin (the paper being of the ordinary foolscap size in use in official correspondence), so that they may be afterwards used by counsel and others (as, for instance, for the purposes of Rules 27 and 35) in every subsequent stage of the case, and the expense of procuring fresh copies from time to time may be thus avoided.

It should be borne in mind that correct uncertified copies (which need not bear any Court-fee Stamp) are for all purposes, except for filing in Court, as good and as useful as certified stamped copies, and copies of the latter kind should, therefore, only be

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* *Vide* note to rule 28.

† A form of general power of attorney under section 37 of the Code of Civil Procedure is given at page 178 of the High Court's Circular Order Book.

obtained when they are required for filing in Court or when these rules expressly state that certified copies should be procured.

* In cases from the Kánarese Districts, Maráthi or English translations must accompany all copies of Kánarese exhibits intended for the use of the Remembrancer of Legal Affairs or of the Government Pleader in the High Court.

†73. District Government Pleaders shall send a return to the Remembrancer of Legal Affairs on the first of every month in the following form. When there are no cases to be entered in the return it shall nevertheless be sent in blank:—

Monthly return to be sent by the Government Pleaders to the Legal Remembrancer.

Return of Original Suits, Appeals and other Civil Proceedings, instituted in the District of during the‡ month of 189 , in which Government or any Government Officer is concerned.

Court in which instituted.	Nature of Case (*i.e.* whether an original suit, appeal, or other civil proceeding).	No. of Cases.	Date of Institution.	PARTIES.		Date fixed for the hearing.
				Plaintiff, Appellant, or Petitioner.	Defendant, Respondent, or Opponent.	

(Signed) *A.B.*,
Government Pleader.

* For the last paragraph of No. 72, the Sind Rules, substitute the following:—

"English translation must be sent of all vernacular papers intended for the use of Government or of the Remembrancer of Legal Affairs."

† In No. 73 for the words "on the 1st of every month" the Sind Rules, substitute "on the 1st of January and the 1st of July."

‡ After the words "during the month of," the Sind Rules, substitute "six months ending."

APPENDIX.

ACCOUNTS.

Salaries and fixed fees.

1. Government Pleaders will draw their salaries, and their fees for criminal cases, and any special fees which may from time to time be sanctioned by the Remembrancer of Legal Affairs or by Government, on submitting bills in the usual form to the proper Treasury Officer.

Permanent advances for minor charges.

2. To enable them to meet the minor charges incident to the institution and conduct of the cases, whether civil or criminal, with which they are entrusted, the Government Pleader in the High* Court shall be allowed a permanent advance of Rs. 500, and such of the District and Subordinate Government Pleaders as the Remembrancer of Legal Affairs authorizes to receive the same, shall be allowed each a permanent advance not exceeding Rs. 200. Only those Government Pleaders who have usually a large number of Government cases on hand shall be authorized by the Remembrancer of Legal Affairs to receive this advance.

Bills to be submitted for charges.

3. Government Pleaders are to defray all the charges connected with each case as they arise, and to submit a bill for the same (and for their own fees in civil cases), as soon as possible, after each case has been decided, to the Collector or other officer concerned in the case.

But when, as in the case of the court-fee chargeable on an appeal in which the claim is for a large amount, a Government Pleader has to pay considerable sums out of pocket at once, he may submit separate bills for such sums immediately, provided that the amount of any such bill shall not, in the case of the Government Pleader in the High Court, be less than Rs. 50, and of other Government Pleaders, Rs. 35.

A bill of charges submitted under the first para. of this rule shall include the whole of the charges on account of the case for which it is submitted and any sums which may have been already drawn on account of the case under para. 2 of this rule shall be shown at the end of the bill and deducted.

Bills to be examined by Legal Remembrancer.

4. Every bill submitted by a Government Pleader under the last rule is to be forwarded by him through the Remembrancer of Legal Affairs and must be accompanied by vouchers, or by a copy of the Court's decree in support of every item contained in it.

The Remembrancer of Legal Affairs shall, if he passes the bill, countersign and forward it to the officer by whom it is to be paid. The Remembrancer of Legal Affairs is responsible for curtailing unnecessary, or exorbitant charges, and generally for controlling all expenditure incurred by Government Pleaders.

Contingent bills of the Government Pleader in the High Court.

† 5. Postal and other general contingent charges may be drawn by the Government Pleader in the High Court on bills countersigned by the Remembrancer of Legal Affairs according to the rules in force for payment at the Presidency.

District and Subordinate Government Pleaders not to incur contingent charges.

‡ 6. The Judges of the Courts to which District and Subordinate Government Pleaders are respectively attached are authorized to cause their letters and packets to be franked as if they issued from their own offices, and also to pay any bearing charges on official covers which they may receive. The Government Pleaders shall be responsible that such letters, packets, and covers are *bonâ fide* despatched, or received, on Her Imperial Majesty's service only. District and Subordinate Government Pleaders shall not incur any contingent expenses apart from the necessary charges connected with the cases which they have to conduct.

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* In the appendix to the Sind Rules the words "Sadar Court" are throughout substituted for "High Court."

† No. 5 is omitted in the appendix to the Sind Rules.

‡ In No. 6, the Sind Rules, omit the words "District and Subordinate" before the words "Government Pleaders."

PART XVII.

MISCELLANEOUS.

ROAD TOLLS.

Army Act, 1881, 44 and 45 *Vict.*, *c.* 58.

Section 143.—All officers and soldiers of Her Majesty's regular forces on duty or on the march; and

their horses and baggage; and

all prisoners under military escort; and

all carriages and horses belonging to Her Majesty or employed in her military service, when conveying any such persons as above in this section mentioned, or baggage or stores, or returning from conveying the same;

shall be exempted from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing place, or in passing along or over any turnpike or other road or bridge, otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, ordinance, order or direction of the Legislature or other authority in India or any colony:

Provided that nothing in this section shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels.*

† *Exemptions under Section* 5 *of the Tolls Bombay Act III of* 1875, *amended by Bombay Act I of* 1881.

1. ‡ Military officers and camp followers, carts, cattle, &c., when moving under the orders of competent Military authority; animals belonging to the Government cattle farm and vehicles plying to and from Government cattle farms on farm service. (*B.G.G.*, 1876, pp. 203-204. Notn. No. 6489, *B. G. G.*, 1884, Pt. I., p. 593.)

* These words are extremely comprehensive and appear to include *municipal* tolls demandable by virtue of the Bombay Municipal Acts, whatever be the nature of these tolls. (G. R. 1309, 30th April 1887, G. D.)

† All Native States are expected to render every facility to Government in carrying out public works, especially such as they are directly interested in and benefited by. * * While, therefore, no Resolutions of Government or British laws can or need be enforced, the Governor in Council looks to the Chiefs, or to those who are in their places, to issue on their own part such orders as will facilitate the execution of public works in which their subjects are as much interested as British subjects. (Resolution on the levy of tolls by Native States on materials of the Public Works Department passing through their territories.) (G. R. No. 6645, 5th Oct. 1888, Pol. D.)

‡ These words do not exempt contractors' carts conveying Government hay from the kurans to the stackyards at Poona and Kirkee. The toll leviable on such carts should be paid in the first instance and the sum paid, subsequently recovered by a contingent bill under clause 7. (G. R. No. 7348, 15th Sept. 1884, P. D.)

2. His Excellency the Governor General and His Excellency the Governor, with their camps.

3. Foreign Rulers or Native Chiefs and their followers or retainers; also other Natives of distinction whom Government, the Commissioner, or the Collector, may see fit for special reasons to exempt.

4. Grass-cutters attached to Cavalry or Artillery regiments.

5. Cultivators, wood-cutters, grass-cutters, and the like, who have daily or constantly to pass the toll on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).

6. Carts containing public treasure, with their escorts and luggage.

7. Carts actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by Imperial, Provincial, or Local Funds.* In other cases when a toll is passed by carts, &c., hired for, or in use on the public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own luggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.†

8. Peons of all departments wearing their belts.

(*B. G. G.*, 1876, p. 324. Notn. No. 649, *B. G. G.*, 1878, p. 80.)

9. Mail carts, tongas, horses, vans, actually carrying Her Majesty's mails; led ponies employed in the mail service, and empty mail tongas (*i.e.*, Red Mail Carts), on all mail tonga lines.

(*B. G. G.*, 1876, p. 563.)

10. Overseers of the Postal Department when travelling on duty.

11. Officers and subordinates of the Public Works Department while on duty on the roads under their charge, on which they are actually engaged in supervising repairs.

B. G. G., 1877, p. 105. Notn. No. 709, *B. G. G.*, 1880, p. 172.)

12. Foresters and Forest Inspectors at public ferries when actually travelling on duty.

13. A'bkári Inspectors and their subordinates when travelling on duty.

(Notn. No. 5817, *B. G. G.*, 1888, pp. 729-730.)

14. Stray cattle when being taken to the pound, but in respect for tolls for the levy of which a lease has been granted under section 10 of Bombay Act V of 1881, this exemption shall come into force on the expiry of such lease.

Tolls Act Amendment Act, 1881.

Under this Act a lessee of tolls, and every person employed by him as his agent for collecting them, will have power to seize any part of the burden or load of the carriage or animal in respect of which a

* Carts so employed should be exempt whether they are empty or laden when they pass the toll bar. (G. R. No. 6946, 6th Oct. 1882, R. D.)

† Municipalities and cantonments cannot claim exemption from road tolls for carts conveying materials for their works. (G. R. No. 8628, 1st Nov. 1884, R. D.)

toll is chargeable and is not paid; and if any toll remains unpaid for twenty-four hours, the case must, under section 4 of Bombay Act III of 1875, be brought before the officer appointed to superintend the collection of the toll, who may sell the property seized if the owner of it does not, before the commencement of the sale, tender the amount of all the expenses incurred, and of double the toll payable by him. (G. R. 7234, 30th November 1881, R. D.)

Care must be taken to guard against the abuses to which the power of seizing property granted to the lessee of tolls and his employés is liable. (G. R. 7234, 30th November 1881, R. D.)

Local Fund Committees are appointed to *manage* and the Mámlatdárs and Mahálkaris within their respective charges to *superintend*, the collection of tolls. Lessees under this Act are officers appointed to collect tolls, or Toll Collectors, within the meaning of Act III of 1875. (G. R. No. 2043, 28th March 1882).

PUBLIC FERRIES.*

Exemptions under Section 3, clause (d) of Bombay Act II of 1868.

(Notn. No. 1582, *B. G. G.*, 1882, p. 330.)

The following notification of 2nd May 1882, has been published:—

"In exercise of the power conferred on him by section 1 of Bombay Act II of 1878 (amending Bombay Ferries Act, 1868,) the Governor in Council is pleased to declare that the persons, vehicles, animals, &c., mentioned in the following list are exempt from payment of ferry tolls otherwise demandable under Bombay Act II 1868 in addition to the persons exempted by section 3 of Bombay Act II of 1868: provided that exemptions heretofore allowed since the passing of Bombay Act II of 1878 in conformity with a Notification of the Governor in Council published at page 890 of the *Bombay Government Gazette* of 11th August 1870, shall be deemed to have been lawfully allowed as if this notification had been in force during such period:—

1. All officers and soldiers of Her Majesty's regular forces on duty or on the march, and their horses and baggage; and all prisoners under military escort; and all carriages and horses belonging to Her Majesty or employed in Her military service, when conveying any such persons or baggage or stores, or returning from conveying the same.
2. All camp followers, carts cattle, &c., when moving under the orders of competent military authority. Animals belonging to the Government Cattle Farm.

* B. II of 1868 has been extended to Sind and Notification dated 27th January 1869. With reference to Act II of 1868, the Commissioner in Sind shall stand for Revenue and Police Commissioner, *B. G. G.*, 1869, p. 66.

3. His Excellency the Governor General and His Excellency the Governor with their camps.

4. Foreign rulers or native chiefs and their followers or retainers; also other natives of distinction whom Government, the Commissioner or the Collector, may see fit for special reasons to exempt.

5. Grass-cutters attached to Cavalry or Artillery Regiments.

6. Cultivators, wood-cutters, grass-cutters and the like, who have daily or constantly to cross the ferry on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).

7. Carts containing public treasure, with their escorts and baggage.

8. Carts actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by Imperial, Provincial, or Local Funds.

In other cases when a ferry is crossed by carts, &c., hired for, or in use on, the public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own baggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.

9. Peons of all departments wearing their belts.

10. Mail carts, tongas, horses, vans actually carrying Her Majesty's mails; led ponies employed in the mail service, and empty mail tongas (*i.e.*, red mail carts) on all mail tonga lines.

11. All military and public stores, and goods belonging to the Public Works and Local Funds Department, Treasure and Official Records.

12. All village and district officers, and all officers belonging to any of the departments under Government when actually travelling on duty, and who have been exempted under section 5 of the Tolls Act, 1875; and all Public Works and Local Fund maistries, mustering karkúns, post-runners, mukádams, and peons, when provided with a pass showing that they are *bonâ fide* employed in these departments.

13. All young children in arms.

(Notn. No. 3691, *B. G. G.*, 1882, p. 738.)

14. All persons belonging to the Bandar Establishment of the Indus Conservancy Department at Kotri and Sukkur in the Province of Sind.

Provided that in the case of any of the officers above mentioned whose exemptions have been granted after the existing ferry contracts have been sold and accepted by contractors, the exemptions shall be deemed to come in force on the expiry of the present contracts:

Provided also that the exemption from payment of Ferry tolls in the case of Government officers is

limited to the officials above mentioned and their actual conveyance, and does not extend to their camp equipage and personal baggage. The exemption is only to extend to the one horse on which the officer may happen to be riding.*

Bombay Public Ferries Act, 1868.

Section 2.—Notification issued 16th December 1868 :—† (*B. G. G.*, 1868, p. 1235.)

All existing Ferries within the limits of the Presidency of Bombay which have been declared to be Public Ferries under the provisions of any law heretofore in force shall be deemed to be Public Ferries under the present Act.

The following powers have been delegated under section 17 of the said Act :—

To the Commissioner in Sind.—The powers conferred on the Governor of Bombay in Council, sections ‡2 and 3 of the Act. (*B. G. G.*, 1870, p. 1019. *B. G. G.*, 1871, p. 297.)

To Revenue Commissioners.—Power under section 5 to lease any Public Ferry by public auction or by private contract for a period not exceeding seven years.

Sections 6, 12 *and* 17.—Power to approve and, modify rules made by Collectors of districts for the regulation of Public Ferries under section 12. (*B. G. G.*, 1869, p. 902.)

To Collectors of Districts.—(1) Power under section 4 to provide for the appointment of Toll-keepers, Ferrymen, and other servants for the management and conduct of the Public Ferries within their districts.

(2) Power under section 5 to confirm all existing leases of Public Ferries for the remaining periods of the leases, provided such period do not exceed seven years.

(3) Power to lease any Public Ferry by public auction or by private contract for a period not exceeding one year.

Power to approve of regulations made by lessees, contractors or farmers under section 6. (*B. G. G.*, 1869, p. 902.)

Power to determine the number of boats and men to be kept up at each Ferry, and the dates on which instalments shall be paid, which are to be included among the conditions of the lease under section 5 of the Act; and to exercise general control (*B. G. G.*, 1870, p. 892.)

* The object of the provision is to prevent any misapplication of the term 'actual conveyance.' For instance, an officer may require six riding horses to accomplish a journey. In crossing a ferry the horse he happens to be riding is exempt but not the other five horses. So, too, if an officer is making a journey by stages using various modes of conveyance, the particular one which he is actually using when he has to cross a ferry alone is exempt from payment of toll, whether it happens to be a carriage and pair, or a riding horse, or a camel, or an elephant, or any other kind of conveyance.(G. R. No. 2294 of 20th June 1882.)

†This is in force in Sind. Notification, 27th Jan. 1869, *B. G. G.*, 1869, p. 66.

‡For exercise of these powers *vide* Notification, 1874, S. O. G., 1886, p. 777.

of the public ferries in their districts, under the orders of Government and subject to the general control of the Revenue Commissioner.

(*B. G. G.*, 1870, Pt. I., pp. 890-892.) All Ferries in the Bombay Presidency shall be divided into classes, and the rates of toll leviable at each class of Ferry shall be as specified below.

Classified table of Ferry Fares.

Large tidal Ferries, which the same boat will not work across both ways more than twice in the day, are to be treated as special cases; other Ferries may be classed as follows :—

Class 1.—To comprise those where the same boat cannot go and return more than six times in a day of fourteen hours.

Class 2.—Those where the same ferry boat will cross and recross from seven to ten times.

Class 3.—Those where one boat will cross and recross from eleven to fifteen times.

Class 4.—Those where it will do so more than fifteen times.

It is to be understood that this classification of Ferries according to the number of times which a boat can cross is not to be *strictly* adhered to.

Table of Fares.

Description.	Rates of Ferry Fares.			
	At Ferries of 1st Class.	At Ferries of 2nd Class.	At Ferries of 3rd Class.	At Ferries of 4th Class.
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Four-wheeled carriages, each.	0 12 0	0 8 0	0 6 0	0 6 0
Two-wheeled carriages on springs	0 8 0	0 6 0	0 4 0	0 3 0
Laden carts, with or without springs, each	0 8 0	0 6 0	0 4 0	0 3 0
Unladen do. do. do. ...	0 5 0	0 4 0	0 3 0	0 2 0
Laden tattoos, horned cattle and mules	0 3 0	0 2 0	0 1 0	0 1 0
Horses laden or unladen ...	0 3 0	0 2 0	0 1 0	0 1 0
Unladen tattoos, horned cattle and mules	0 2 0	0 1 0	0 0 6	0 0 6
Asses, laden or unladen ..	0 1 0	0 1 0	0 0 6	0 0 6
Camels, laden or unladen ..	0 4 0	0 3 0	0 2 0	0 2 0
Sheep and goats	0 0 3	0 0 3	0 0 1	0 0 1
Palanquin with hamals ...	0 12 0	0 8 0	0 8 0	0 4 0
Toujon or native Palna, with hamals	0 6 0	0 4 0	0 4 0	0 2 0
Passengers other than little children	0 1 0	0 0 6	0 0 3	*0 3 0

(Notn. No. 2083, *B. G. G.*, 1883, p. 423.)

Description.	Rates of Ferry Fares.			
	At Ferries of 1st Class.	At Ferries of 2nd Class.	At Ferries of 3rd Class.	At Ferries of 4th Class.
Goods and merchandise unloaded from carts at one side of a ferry for the purpose of being re-loaded into carts at the other side.	3 annas for each cart unloaded.	2 annas for each cart unloaded.	1 anna for each cart unloaded	1 anna for each cart unloaded.

The rates to be levied at special Ferries shall be fixed by the Collector in each case with the sanction of Government.

*Sic. 0. This appears to have been an *erratum* for 3 pies.

These fares, besides giving the persons paying them a right to the conveyance of their vehicles and animals and their loads across the Ferry, are, in cases of wheeled vehicles, to pay for embarkation, disembarkation, and (at the Ferries where it is declared necessary by the Collector) taking the vehicles to the top of the opposite bank, sufficient men for this purpose being provided by the Ferry contractor, without causing delay in the working of the boat. No charge to be made for little children in arms. The fare chargeable for a wheeled vehicle is not to cover the fare for the animal or animals which may draw it. Half rates only should be charged for animals made to swim alongside of the boat.

The conditions which Government deem it advisable to insert in leases of Public Ferries are :—

(*a*) That the contract shall not be sublet without the express sanction of the Collector given in writing.

(*b*) That the amount of the contract shall be paid by the farmer in monthly instalments, on dates to be fixed by the Collector and inserted in the contract.

(*c*) That satisfactory security be given for the punctual payment of the amount of the contract, and of interest at one per cent. per mensem on all sums which may fall into arrears.

(*d*) That the contract may be cancelled for failure on the contractor's part to observe any of its terms, and that the contractor and his securities shall be answerable for any loss which may be caused, by its resale, and the direct management of the Ferry for the period which remained for it to run.

(*e*) That the Collector may make all necessary additions or repairs to the contractor's boats or baskets ; on his failing to do so for five days after being required in writing, the cost to be defrayed by the contractor, and recovered from him as a revenue demand in default of payment.

(*f*) That a certain number of boats and men, to be fixed by the Collector, shall be maintained during the period of the contract.

(*g*) Any other conditions consistent with the provisions of the Act which may be specially sanctioned by the Revenue Commissioners, to whom power is hereby delegated under section 17 of the Act for this purpose.

ADDITIONAL ORDERS.

Memo. of Legal Remembrancer. Meaning of the word "Ferry."—"Ferry" is defined in Wharton's Law Lexicon as "the right to carry persons and their goods in boats across a river and to take toll for such carriage." The ordinary meaning of the word "across", as given in the Dictionaries is "from side to side."

Ferry only applies to boats plying across a river.

2. Bombay Act II of 1868 is an Act to amend the law relating to Public Ferries. It nowhere defines what is a ferry, but section 2 empowers Government to declare what "Ferries" are "Public Ferries," and also to establish any new "Public Ferry" or discontinue any existing "Public Ferry."

3. The word "Ferry" must therefore, I think, be given its ordinary generally recognized meaning, and the wording of section 14 of the Act which prescribes a penalty for any one conveying either persons or goods, &c., across any creek or river to any point on the opposite shore or bank not being more than three miles on either side above or below any Public Ferry, supplies abundant proof, if any were needed, that the Act itself intended the meaning of the word to be so understood.

4. I am therefore of opinion that the right of carrying passengers, &c., to and fro down and up the creek between Bassein and Bhiwndi is not a ferry, and that it is not competent to Government under the Act to declare that to be a ferry which is not so.

5. Fresh legislation would, I think, be necessary to legalise the granting of monopolies in the ordinary carrying trade. (G. R. No. 2747 of 23rd September 1874, G. D.)

Section 14.

Section 14 refers to conveyance, not to letting a boat for hire.

Memo. from the Acting L. R. :—"The question raised is whether section 14 of the Bombay Ferries' Act, II of 1868, makes it penal for a person to let a boat for hire, within three miles of a public ferry, without a license.

"2. The Collector of Kánara, who makes the reference, is of opinion that the latter part of section 13, exempting from liability the letting of a boat for hire, is included in the exception provided by section 14, but as his predecessor had taken a different view, desires to have the question finally settled.

I. L. R. 9 B. 97.
I. L. R. 9 B. 558.
I. L. R. 10 B. 78.

"3. I would submit that the question cannot be finally settled except by judicial decision, and the Courts could not of course be bound by any opinion I might form on the subject.

"4. But as it may be desired for executive action I may state my opinion that section 14 refers only to conveyance for hire, and not to the letting of boats for hire.

"In conveyance for hire, the person contracting to convey takes the responsibility of conveying on himself. In letting for hire, he makes no such contract. Bombay Act II of 1878, section 2, amending Bombay Act II of 1868, shows that conveyance may be otherwise than by boat.

"5. I think as a penal enactment must be construed strictly, section 14 refers *only* to '*conveying* for hire' and not to the supplying another, whether for hire or otherwise, with the means of conveying himself or his friends.

"6. The exception in section 14 refers only to that part of section 13 which treats of 'conveying'. But there is nothing in section 14 which renders it penal for a man to convey himself, his friends, servants or goods by any means at his disposal, or to supply any person with such means." (G. R. 4529, 26th December 1888, G. D.)

Ferry between British Territory and Native States.

Government are of opinion that when a Ferry plies between British territory and a Native State, the proceeds should be equally divided between the two Governments.

2. This rule should be followed in regard to all Ferries hereafter established, and the States concerned should be asked to acquiesce in it before any disputes arise as to the division of profits. It may be also applied to any Ferries which may have been recently established. In regard, however, to a Ferry like that at Siddápur in the Sángli State, of which the proceeds have been enjoyed by Sángli from very ancient days, Government will not press their rights, not because they admit that the treaty is opposed to such a claim, but simply because they have not claimed their rights since the establishment of British rule in the Deccan.

3. Government are further of opinion that a Ferry established in British territory may be declared a Public Ferry even though the opposite side of the river be in a Native territory. The Native States concerned should however be urged, if they have not already done so, to promulgate rules similar to those contained in Bombay Act II of 1868, for application to any Ferries that may have been or may hereafter be declared by the British Government to be Public Ferries. (G. R. No. 7184 of 7th December 1886, Pol. D.)

Memo. by the L. R:—Application of Act XIX of 1838 *to Ferry Boats.*—I think that Local Boards must be counted amongst 'Her Majesty's subjects residing within the Presidency of Bombay' and therefore vessels belonging to them are liable to be registered under Act XIX of 1838, if they are employed in such places as would render them liable to be registered under that Act if they were the property of private owners.

2. I put my opinion in these words, because the Collector's question and the Commissioner's explanation do not appear to refer to the same class of ferry boats. The Collector speaks of "Ferry boats which ply on the rivers and creeks of the district, whilst the Commissioner limits his observations to 'boats used on Ferries in harbour and coast waters.' The Act applies to 'harbour craft' and to vessels 'employed on the coasts', *i.e.*, on the sea-coast. It does not apply to vessels employed exclusively on rivers and creeks, unless they ply to places which, although situated on such rivers or creeks, may reasonably be held to be on the sea-coast. (G. R. No. 1607 of 8th March 1888, R. D.)

Questions as to levy of Ferry Tolls in case of Cart-drivers, Passengers in Carts or Riders or Syces in charge of Horses crossing.

I.—Does the charge for the unladen cart include the charge for the driver ?

II.—Does the fare for the laden cart include the fare of the passengers who may have engaged the cart ?

III.—Does the fare for the horse include fare for either rider or syce ?

The existing practice should be continued during each current farm as the contract may be supposed to have been made in contemplation of it. But in future one person taking care of a horse or a vehicle, but not more than one, may properly be regarded as merely incidental, and in respect of such person no toll should be leviable, but all other persons with the horse or vehicle should be charged for separately. (G. R. No. 839 of 25th February 1889, G. D.)

PRINTING PRESSES AND NEWSPAPERS (ACT XXV OF 1867, AS AMENDED BY ACT X OF 1890).

(Notn. No. 994, *B. G. G.*, 1891, Pt. I., p. 254.)

In exercise of the powers conferred by section 9 of Act XXV of 1867, as amended by Act X of 1890, and in supersession of the directions contained in the Notification published under the said section in the *Bombay Government Gazette* for 1868, page 93, His Excellency the Governor in Council is pleased to direct that the places and officers at which and to whom the delivery of books by printers in accordance with the said section shall be made, shall be as follows :—

In the case of books issuing from a Press situated in the Town or Island of Bombay,—

At the office of the Collector of Land Revenue, Customs and Opium, Bombay, and to the Collector of Land Revenue, Customs and Opium, Bombay.

In the case of books issuing from a Press situated elsewhere,—

At the head-quarter station of the Collector of the district in which the Press issuing the book is situated and to the Collector of that district.

(Notn. No. 994A, *B. G. G.*, 1891, Pt. I., p. 255.)

In exercise of the powers conferred by section 20 of Act XXV of 1867 as amended by Act X of 1890 and in supersession of the rules made under the said section and published at the *Bombay Government Gazette* of 1871, page 783, His Excellency the Governor in Council is pleased to make the following rules, namely :—

(*i*) Every Collector on receiving from a printer delivery of a book under clause (*a*) of the first paragraph of section 9 of Act XXV of 1867 as amended by Act X of 1890 shall forward the same to the Registrar of Native Publications.

(*ii*) The Registrar of Native Publications on receiving a book forwarded under the rule last preceding shall, after the same has been registered, use it for the preparation of the annual review of literature, and when it is no longer required for that purpose shall forward it to the Director of Records at the Record Office.

(*iii*) The memoranda required by section 19 of the said Act to be published quarterly in the local Gazette shall be prepared by the Registrar of Native Publications, who shall send 15 copies of the memoranda so published to the Under Secretary to Government, General Department.

(Notn. No. 1326, *B. G. G.*, 1891, Pt. I., p. 327.)

(*iv*) Copies of books delivered under clause (*b*) of section 9 of Act XXV of 1867 as amended by Act X of 1890, shall be forwarded to the Curator, Government Central Book Depôt, who shall transmit the same, through Government in the General Department, to the Secretary of State for India or the British Museum or to both on the receipt of orders and in accordance therewith.

Exemptions under Section 21.

1. All books, maps, sketches, charts and papers, printed or published under the orders of Government or for official purposes. (*B. G. G.*, 1868, p. 228.)

2. All reprints and translations, without comment or annotation, of Acts of the several Indian Legislatures published in British India. (Notn., *B. G. G.*, 1871, p. 7; *B. G. G.*, 1872, p. 5.)

3. Reprints of books without additions or alterations, and without new notes or commentaries.

4. Acts of the Legislative Council without notes or commentaries.

5. Price lists and tradesmen's circulars.

6. Catalogues of books and other articles, auctioneers' notices and advertisements.

7. Play bills, comprising advertisements of theatrical and musical and entertainments.

8. Decisions of Courts of law without notes or commentaries.

9. Petitions and appeals addressed to constituted authority under the provisions of law.

10. Testimonials of private individuals or public officers.

11. Annual reports of schools, banks, societies and firms.

12. Almanacs and calendars.

13. Labels affixed to articles of commerce.

All such books as become the property of Government, for educational purposes are exempted from the registration fee of two rupees leviable under Section 18 of the Act. (*B. G. G.*, 1869, p.

ADDITIONAL ORDERS, OPINIONS, &c.

Declaration under Section 5 and Section 8 how to be filed. Returns by Magistrates of Districts.

All declarations under the Act shall be kept by the Magistrate in a separate file. Each District Magistrate should furnish Government in the General Department with a return showing all the periodical newspapers published in his district, with the name of the printer and publisher and the place of printing and publication of each, as well as the date of the declaration required by law. The returns should be for the financial and not for the calendar year, and should be submitted by the end of April in each year.

In Bombay the Chief Presidency Magistrate should be requested to furnish the annual return for that city. (Circ. No. 7169 of 13th December 1887, J. D., as modified by Circ. No. 3558 of 29th August 1889, G. D., and G. R. No. 287 of 20th January 1890, G. D.)

Declaration required by Secion 5 when to be made.

The form of declaration in the present tense is meant to cover the cases of an existing publication continued, of one just begun, and of one beginning or about to begin forthwith. In each case the publication is regarded as being, for a moment, virtually contemporaneous with the declaration, and the declaration must not be delayed for any substantial time after the commencement of publication. (G. R. No. 637 of 1st February 1888, J. D.)

Effect of, and obligation to make, Declaration.

"Memo. by Acting L. R:—A declaration made under section 5 of Act XXV of 1867 holds good until either—

(*a*) a new declaration has become necessary under the Act itself, or

(*b*) the person making it has made a new declaration under Section 8 of the Act, stating that he has ceased to be the printer or publisher of the work in question.

"2. A new declaration becomes necessary—

(*a*) when the place of printing or publication is changed, or

(*b*) when the printer or publisher who made the original declaration leaves British India.

"3. No new declaration is rendered necessary in any other case.

"The object of the Act is, apparently, not so much to supply information as to the actual quantity of printed matter issued periodically, as to ascertain the persons responsible for the printing and publication of what is issued.

"4. Sections 7 and 8 indicate this. Civil and criminal responsibility in respect of periodical works continues to attach to the declarant until he declares that he has ceased to be the printer or publisher.

"5. If a publication ceases for a time, the printer or publisher is under no obligation either to declare the cessation, or on reviving the work to make a fresh declaration. But if he does not declare the cessation of his connection with the work, his civil and criminal liability in respect of any future issue of it under the declared title will continue unaffected by any temporary suspension. The Act does not require a printer or publisher to keep any authority informed of any suspension or cessation of a periodical, but only keeps alive his responsibility for every issue until he makes a declaration under Section 8." (G. R. No. 1222, 25th March 1890, G. D.)

*DESTRUCTION OF RECORDS, ACT III OF 1879.

All the rules and orders made before the passing of the Act have, under section 6 of the Act, the force of law until they are rescinded by rules made under the Act. The Commissioners have power, under section 4 of the Act, from time to time to make rules regarding the disposal, destruction, &c., of records, books and papers belonging to or in the custody of the Revenue Courts and offices; and all such rules, after being confirmed by the Local Government and sanctioned by the Government of India, must be published in the local official *Gazette*, and thereupon have the force of law. No fresh rules or orders have been passed since the Act came into force which relate to the Revenue Department.

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* Rules under this Act are now under consideration.

*THE MA'MLATDA'RS' COURTS ACT, BOM. III OF 1876.

Rulings by the High Court.

1. The purpose of Act XVI of 1838 and Bombay Act V of 1864 was temporary only, and chiefly to provide for the cultivation of the land and to prevent breaches of the peace until the Civil Courts should determine the rights of the disputants. The decisions of the Revenue and the Mámlatdárs' Courts as to possession and dispossession do not bind the Civil Courts, being of a summary character. The Civil Courts alone can entertain the question of title. (I. L. R. 1 Bom. 624.)

Mámlatdárs' orders cannot decide questions of title.

A Mámlatdár's order is not conclusive evidence of the facts of possession and dispossession between the parties. (I. L. R. 1 Bom. 624.)

And are not conclusive as to fact of possession.

The Mámlatdár's Court constituted by Bombay Act III of 1876 is a Civil Court within the meaning of section 468† of the Code of Criminal Procedure. Therefore a complaint of an offence mentioned in that section when such offence is committed before or against the Mámlatdár's Court shall not be entertained in the Criminal Courts except with the sanction of the Mámlatdár's Court or the High Court to which it is subordinate. (I. L. R. 5 Bom. 137. See also Part VIII (3), Court Fees Act.)

Sanction necessary for complaint of false evidence, &c., committed in Mámlatdár's Court.

Regulation II of 1827, section 5, clause 2, provides that it shall be competent to the Sadar Diváni Adálat to call for the proceedings of any *subordinate Civil Court*, and to issue such orders thereon as the case may require. This power, called the Extraordinary Jurisdiction, was transferred to the High Court by section 9 of Statute 24 and 25 Victoria, cap. 104.

High Court's power of superintendence and revision.

The Mámlatdárs' Courts constituted under Bombay Act V of 1864 were expressly declared by that Act to be the same Courts which are referred to in Regulation VI of 1830 as subordinate to the Sadar Diváni Adálat.

The High Court has, therefore, power to set aside an order made by a Mámlatdár under Bombay Act V of 1864 (*Mahádáji* v. *Sonu*, 9 Bom. H. C. Rep. 249). The effect of Bombay Act III of 1876 has not been to divest the High Court of the power of superintendence and revision which it exercised over Mámlatdárs' Courts previously to the passing of the Act.‡

Such Courts have jurisdiction in a town or city within the táluka, and over houses, which term is included in "premises" in section 5. (*Bái Jamna* v. *Bái Jadav*, I. L. R. 4 Bom. 168.)

A Mámlatdár has no jurisdiction to declare a plaintiff entitled to joint possession with the defendant of land the joint property of the plaintiff and defendant or to award him separate possession of a specific half of it. (*Késo Dinker* v. *Moor Sakharam*, B. H. C. P. J., 1883, p. 120.)

Mámlatdár has no jurisdiction as to undivided property.

Section 4 gives the Mámlatdar power to give immediate possession when the plaintiff is entitled to restoration of the land by reason of the determination of the tenancy whether by efflux of time or by any other cause agreed on by the parties at the time of creating the tenancy (*Shridhur* v. *Bhagwant*, B. H. C. P. J., 1882, p. 370.)

Section 4.—Immediate possession on determination of tenancy.

The removal of earth from a field is a taking of a portion of the substance and not merely of a profit of the land; and the Mámlatdár has no jurisdiction, under section 4 of Bom. III. of 1876, to entertain an application for an injunction to restrain the defendant from obstructing the plaintiff in the exercise of her right to take earth from the defendant's land. (I. L. R. 7 Bom. 425.)

Removal of earth from a field.

A Mámlatdár's jurisdiction is not barred by a decision in a former suit not between the same parties. (I. L. R. 10 Bom. 1878).

Decision by Mámlatdár does not bind third parties.

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* The charge for process issued under Bom. III of 1876 shall be regulated in accordance with the rule prescribed by the High Court under section 20 of the Court Fees Act VII of 1870, for the Revenue Courts in the Bombay Presidency proper. (Notification 6330, *B. G. G.*, 1882, p. 707.)

† The Code here referred to is X of 1872. The corresponding section in X of 1882 is section 195.

‡ Section 622 of the Code of Civil Procedure (Act X of 1877) gives the High Court power to call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have acted without jurisdiction, or illegally, or irregularly.

This section would appear to apply to ordinary Civil Courts and not to Mámlatdárs' Courts, which are, however, *subordinate Civil Courts* within the meaning of section 2 of Reg. II of 1827, which is still in force.

The ruling of the High Court in *Bái Jamna* v. *Bái Jadav* does not refer to section 622 of the Civil Procedure Code, but follows the ruling in *Mahádáji* v. *Sonu*.

A distinction is drawn in Bombay Act III of 1876 between Mámlatdárs' Courts and ordinary Civil Courts, and a peculiar procedure laid down therein for the former.

If appears, therefore, that although Mámlatdárs' Courts are in some senses and for certain purposes Civil Courts, they are not Civil Courts to which the provisions of the Civil Procedure Code can be held applicable.

Mámlatdárs in the exercise of their judicial functions are bound to be governed by the law as they understand it, or as expounded by superior *judicial* authority, not as it is understood or expounded by unjudicial persons. (I. L. R., 9 Bom., 97 ; 10 Bom., 78.)

OPINIONS.*

Procedure where parties come to terms.

Memo. by Acting L. R. :—The Mámlatdár has power under Bombay Act III of 1876—

to award immediate possession,
to restore a use,
to grant an injunction.

He cannot pass any other order in respect of the dispute between the parties. If at the commencement of the trial the plaintiff should appear without his witnesses, and express his readiness to withdraw his plaint, the Mámlatdár would be justified in rejecting the plaint under section 13 of the Act.

If the plaintiff should be present with his witnesses and signify his intention of not going on with the case, the Mámlatdár should examine him as a witness, and on the evidence of his own statement record a finding on each issue in favour of the defendant and then reject the plaint under section 15 of the Act.

If the plaintiff and defendant come to an arrangement between themselves, the Mámlatdár should examine the parties, and then, if possible, record a finding on the issues in accordance with the terms of the arrangement, and decide whether his order should be one rejecting the plaint or any one of the three orders above mentioned. If the agreement or compromise is of such a nature as not to admit of his passing any one of the three orders above mentioned, he should reject the plaint.

The Mámlatdár has no authority to pass any other order in accordance with the terms of an agreement or compromise between the parties, and no such order would be legally binding on the parties.

The following illustrations will be useful :—

(*a*) Plaintiff A. sues defendant B. for immediate possession of a house. At the time of the trial they both are present with their witnesses. But B. says he is willing to pay A. rent if he is left in possession ; A. consents to this. It is quite clear that B. really admits the claim, and therefore the Mámlatdár should record a finding on the issues in favour of A. and award him immediate possession, leaving it to A. to accept B. as a tenant if he chooses. The Mámlatdár cannot order A. to leave B. in possession as a tenant.

(*b*) The plaintiff A. and defendant B. both appear with their witnesses. They put in an agreement in compromise of the suit that the Mámlatdár should pass an order that the parties had settled the dispute out of Court and each party should bear his own costs. The Mámlatdár should pass a decree rejecting the plaint, and as the costs must follow the decree, should direct the plaintiff to pay the costs. The Mámlatdár cannot divide the costs or order each party to pay a proportion thereof, but he must leave it to the parties to do this amongst themselves.

It will no doubt prevent any misunderstanding if the Mámlatdárs are careful to bear in mind that their procedure under the Act is intended to be as simple as possible and must not be elaborated by following the provisions of the Civil Procedure Code. They should pass no order that is not strictly in conformity with the Act. (G. R. 5949 of 10th October 1881.)

Procedure in Execution.

Memo. of Acting L. R. :—6. The provisions of sections 328 to 331 of the Code of Civil Procedure are not applicable to the decisions of the Mámlatdárs' Courts established under the provisions of Bombay Act III of 1876, and unless such application of the provisions of that Code is expressly enacted in the latter local law, it is not open to the Mámlatdárs to follow the procedure laid down in those sections. (G. R. 1673 of 11th March 1882, R. D.)

Disturbance of Possession.

Opinion of the Honourable the Advocate General :—A Mámlatdár's Court has jurisdiction to take cognizance of a plaint in which a party in possession of land sues for an injunction against a person who obstructs him in erecting a house on the land. The Mámlatdár should determine at the hearing whether the acts complained of constitute a disturbance or obstruction of possession or enjoyment of the plaintiff, and if it is proved that the defendant was acting within his rights the suit will be dismissed. (G. R. 4596 of 14th July 1882.)

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* *N.B.*—Mámlatdárs are to be guided by cases judicially decided and their own judgment. The opinions of the Legal Remembrancer are not to be accepted by them as binding. (I. L. R., 9 Bom., 97, and 10 Bom., 1878 ; *vide* also G. R. 3357, 7th May 1889 ; G. R. 1809, 9th March 1888, P. D.; G. R. 7186, 22nd October 1887, R. D.; G. R. 3555, 8th June 1887, R. D.)

Subordinates in temporary charge of Mámlatdárs' duties.

Memo. from the L. R. :—"The Remembrancer of Legal Affairs has the honour to report that in his opinion the words 'under this Act' in section 15 of the Bombay Land Revenue Code, 1879, expressly limit the functions of a subordinate in temporary charge of a Mámlatdár's or Mahálkari's office to the exercise of the powers and the discharge of the duties conferred or imposed upon a Mámlatdár or Mahálkari *by that Code.*

"2. Such a subordinate in temporary charge of a Mámlatdár's office cannot, in the view of the undersigned, be correctly described as a revenue officer ordinarily exercising the powers of a Mámlatdár within the meaning of section 3, clause (1) of the Mámlatdárs' Courts' Act, 1876. He exercises such powers temporarily only and as a special arrangement.

"3. It seems, therefore, to the undersigned that no subordinate in temporary charge, whether of a Mámlatdár's or Mahálkari's office, can be deemed to be a 'Mámlatdár' under the Mámlatdárs' Act, 1876, unless he is specially authorized by the Governor in-Council to exercise the powers of a Mámlatdár under that Act." (G. R. No. 1683, 28th February 1883, R. D.)

Gazetting powers with retrospective effect.

Memo. from the L. R. :—"I do not think the Acting Mukhtyárkar of Mirpur can legally be gazetted with powers under the Mámlatdárs' Courts' Act retrospectively." (G. R. No. 3099 of 20th April 1883, R. D.)

Procedure when Mámlatdár's Court closed for want of officer with powers.

Memo. by L. R. :—"Section 5 of the Indian Limitation Act, 1877, applies, in my opinion, only to suits for which the period of limitation is prescribed by that Act, and therefore not to suits instituted in Mámlatdárs' courts. A Mámlatdár's court need not, however, be absolutely closed, because there is no officer on the spot invested with the powers of a Mámlatdár under the Act. The plaints may, I think, be taken and kept until a duly empowered officer is able to dispose of them. This is the course that was followed in the ordinary civil courts before section 5 of the Limitation Act became law." (G. R. No. 3099 of 20th April 1883, R. D.)

Acting Mámlatdár's powers.

"Looking to paragraph 2 of section 20 of the Bombay Land Revenue Code, which enacts that an officer appointed to act temporarily for another officer 'shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act,' I think that an Acting Mámlatdár is a Mámlatdár within the meaning of Bombay Act III of 1876, just as much as a permanent holder of the appointment. He is a Mámlatdár *pro tem.*, the word 'Acting' having no significance except to the Financial Department of Government.

"2. The case of a subordinate in temporary charge of a Mámlatdár's office, disposed of in Government Resolution No. 1683, dated 28th February 1883, is quite different. Section 15 of the Revenue Code distinctly provides that 'he shall be held to be the Mámlatdár *under this Act*' until he is relieved. Temporarily, therefore, and for the purposes of the Revenue Code only, such a subordinate is to be held to be a Mámlatdár, but he is really only a subordinate in charge of the Mámlatdár's office." (G. R. No. 3339 of 16th May 1883, J. D.)

Gazetting.

Memo. by L. R. :—All appointments of Mámlatdárs, whether substantive or acting, must be made by the Commissioners and gazetted, and when this is done it will be unnecessary in accordance with G. R. No. 3339 of 18th May 1883, for Acting Mámlatdár's powers under Bombay Act III of 1876 to be gazetted; and if subordinates take charge temporarily only of Mámlatdár's offices as is intended by section 15 of the Code, it will hardly ever be necessary or expedient that they should be invested with these powers. For short vacancies the Commissioners might still accept the Collector's nominations without question but should gazette them as appointments made by themselves. (G. R. No. 6825 of 2nd October 1883, J. D.)

Mukhtyár's right to appear in Mámlatdár's Courts.

Memo. by L. R. :—Mukhtyárs, as such, have no right to appear on behalf of the parties to a cause in a Mámlatdár's Court and their admission is illegal. Clause (2) of Section 3 of the Mámlatdár's Courts Acts, 1876, expressly provides that the words 'plaintiff' and 'defendant' in that Act include a pleader and the recognized agent of a plaintiff or defendant as defined in the Civil Procedure Code; 'Mukhtyárs' are not included. (G. R. No. 2831 of 16th April 1884, J. D.)

Transfer of Cases.

The Law does not authorize the transfer of cases from the Court of one Mámlatdár to that of another. (G. R. No. 474 of 17th January 1885, R. D.)

Procedure on death of Plaintiff.

Memo. from the L. R. :—"I think the Mámlatdár should postpone the case for a reasonable time to give the plaintiff's heir an opportunity of appearing and asking to have his name entered in the record in lieu of that of the deceased. If after such postponement nobody appears as plaintiff, the suit should be rejected under section 13, with costs." (G. R. No. 7140 of 6th October 1886, R. D.)

Possession of Crops.

Memo. from the L. R. :—"A sued in the Mámlatdár's court for an injunction to restrain B from *obstructing him in the possession of a field*, and process issued, but before the hearing B forcibly *cut and carried the crop of the field*. Looking to the broad terms of section 4 of the Mámlatdárs' Courts Act, it is, I think, competent to the Mámlatdár to give immediate possession of the crop of the grain and straw composing it (*i.e.* 'any profits of the same') in such a case as that described.

"2. I think that the Mámlatdár should allow the plaint to be amended and that, as regards the land, the proper issues would be those set forth in clause (*c*), and as regards the crop, those set forth in clause (*a*) of section 15 of the Act." (G. R. No. 308, of 13th May 1887, R. D.)

Appointment of Guardian ad litem.

Memo. from the L. R. :—"The question is whether a Mámlatdár trying a suit under Bombay Act III of 1876 can appoint a guardian *ad litem* to conduct the defence on behalf of a minor defendant.

"2. My opinion is that he can do so.

"3. At the time when the above Act was passed the procedure of ordinary Civil Courts was governed by Act VIII of 1859. This Act contained no provisions for the defence of suits on behalf of minors: but it was uniformly held that the ordinary practice of courts admitted of the appointment of next friends or guardians to represent them. In Maganbhái *vs.* Vithoba (IX., Bo. A. C. J., page 7), Couch, C. J., remarked that 'if this could not be done a ..... minor would be disabled from suing for any injury to his property.' This principle appears to be not less applicable to the courts of Mámlatdárs than to other Civil courts.

"4. Subsequently Act VIII of 1859 was superseded by Act X of 1877 which in turn was replaced by Act XIV of 1882.

"5. These latter Acts contain specific provisions for the institution and defence of suits on behalf of minors, but the question how far, if at all, the Civil Procedure Code affects Mámlatdárs' courts has not, so far as I am aware, been authoritatively decided and appears to present various difficulties.

"6. For the purposes of this reference, however, it does not seem necessary to determine this question. The Mámlatdár may, I think, safely follow the provisions of Chapter XXXI. of the Code. They embody the pre-existing practice of Civil Courts, and it is immaterial whether the Mámlatdár's authority for acting on them is based on the old practice or the Code itself. In either case he has such authority subject of course to the restrictions imposed by section 2 of Act XX of 1864. These restrictions, however, seldom come into effect (*vide* I. L. R., V. Bo., 306, and I. L. R., VIII Bo., 239), and as a general rule I think it may be said that the Mámlatdár may appoint any suitable person who is willing to act as guardian *ad litem* for a minor defendant except in cases in which an administrator has actually been appointed under Act XX of 1864. In such cases of course the administrator will represent the minor's estate.

"7. The Mámlatdárs will doubtless remember that in disposing of points of law such as the above (which are liable to come before the High Court on revision) they must exercise their own judgments, and that Government cannot authoritatively decide such questions for them (I. L. R., IX. Bo., p. 97)." (G. R. No. 3555 of 8th June 1887, R. D.)

Effect of Mámlatdár's decisions.

Mámlatdárs' decisions are not binding on third parties. (G. R. No. 7416 of 31st March 1887, R. D.)

Possession when alleged trespasser has built on land in dispute.

Memo. from the L. R. :—"In my opinion the Court has jurisdiction in the circumstances provided the suit is filed within the time prescribed by section 4. If he finds in favour of the plaintiff he can give him possession of the land and any building that may be on it at the time." (G. R. No. 7186 of 22nd October 1887, R. D.)

Jurisdiction when a Sardár is a party.

Letter from the Acting L. R. :—"Having regard to the provisions of section 4 of Bombay Act III, of 1876 I am of opinion that the Mámlatdár's Court has jurisdiction to entertain suits to which a Sardár is a party. It is true that section 3 of Regulation 29 o

1830 provides that Sardárs of certain rank shall not come under the jurisdiction of the Civil Courts and that it has been ruled that a Mámlatdár's Court is a Civil Court. But section 4 of the Mámlatdars' Courts' Act offers relief to 'any person' dispossessed and makes no exception in the case of Sardárs. I think then it must be held to override the provisions of Regulation 29 of 1827. No doubt as a general rule an Act of general application does not control an earlier Act expressly framed to provide for a particular class of cases: but the Mámlatdárs' Act was passed with a special object to provide a speedy remedy in certain cases, and if it had been intended to exempt Sardárs from its operation the intention would, I think, have been stated. As a matter of fact I have little doubt that it was not intended to exempt them. When Bombay Act V of 1864 and Bombay Act III of 1878 were passed it was not thought that Mámlatdárs' Court were Civil Courts, and in section 18 of the latter Act the word 'Civil Court' is used in contradistinction to 'Mámlatdárs' Courts.' At that time I believe it was supposed that the latter were Revenue Courts of the kind referred in clause 2 of section 1 of Act 16 of 1838 and the fact that they were Civil Courts was not established till afterwards.

"At the same time I must point out that this is not a question which Government can authoritatively decide for the Mámlatdár (*vide* I. L. R., X Bom., p. 78). He must act on his own judgment, and either accept or refuse jurisdiction as he thinks proper. In either case his decision is liable to correction by the High Court in its extraordinary jurisdiction on the application of the party dissatisfied therewith." (G. R. No. 1809, 9th March 1889, R. D.)

Amendment of Plaint overstating the facts.

Memo. by the Acting L. R.:—"10. Section 8 of the Act shows that the Mámlatdár could not, after the evidence had been taken, direct an amendment of the plaint. That can only be done where the plaint is on the face of it defective or objectionable in form, and not in order merely to render it consistent with the evidence adduced. But a plaint is not, I think, liable to rejection under section 15 merely because plaintiff has failed to prove every item. The antepenultimate paragraph of section 15 provides that the orders to be passed shall be such as the circumstances of the case, in the opinion of the Court, require. This leaves a discretion and latitude to the Court to adapt its orders to the requirements of each case appearing from the facts proved.

"11. The Legislature never intended that an innocent error as to the extent of a right claimed should deprive the party aggrieved of all redress. In cases of wilful misstatement section 20 of the Act indicates the appropriate procedure." (G. R. No. 3357 of 7th May 1889, R. D.)

THE TREASURE TROVE ACT, VI OF 1878.

13th March 1882.

In exercise of the power conferred by section 19 of the Indian Treasure Trove Act, 1878, the Governor in Council is pleased to make the following rule :—

Notice to, and appearance of, Government Pleader.

In cases in which treasure is found hidden in soil the ownership of which vests in Government, the Collector making the inquiry under the Indian Treasure Trove Act, 1878, shall serve the special notice in writing required by clause (*b*) of section 5 of the Act on the Government Pleader of any Civil Court within the limits of the jurisdiction of which the treasure has been found, or on any officer who may be appointed by Government as agent in this behalf, and such Government Pleader or officer shall, except in cases in which treasure is less than one hundred rupees in value, appear on behalf of Government before the Collector making the said enquiry on the day mentioned in the said notice.

The Government Pleader shall be entitled to the usual fees calculated on the value of the share of the trasure to which Government lays claim, subject to any increase that may be sanctioned by Government in particular cases. (No. 913, *B. G. G.*, 1882, p. 188.)

Form of Notification under Section 55.

*Here describe the nature, amount and approximate value.

† Here describe the place.

‡ Such day not being earlier than four months nor later than six months after the date of notification.

"In accordance with the provisions of section 5 of Act VI of 1878, notice is hereby given to all whom it may concern, that on the day of 189 certain treasure, to wit* was found in† and all persons claiming the said treasure, or any part thereof, are hereby required to appear personally or by agent before the Collector on the‡ day of 189 at , when the Collector will proceed to hold an enquiry in accordance with the provisions of the Act.

Collector."

(Approved in Govenment Resolution No. 1879 of 20th June 1878.)

Notification under section 5 should be forwarded to the Publisher of the *Gazette of India* for insertion in the *Gazette* direct by the Collectors in the Bombay Presidency. (Government of India No. 167, 11th September 1879.)

Orders as to supply of coins to learned Societies.

In all cases where any old or curious coins are found, the whole of them are sent by the Collector of the district in which they are found to the Secretary of the Royal Asiatic society at Bombay. The Society choose such as they wish to purchase at the Collector's valuation, and send the remainder to the Government Mint, where their value is credited to Government.

'The Collector and the Secretary of the Asiatic Society then adjust accounts in direct communication with each other.'

The Asiatic Society at Bombay will be asked, in all cases where there are more than one coin of a sort, to select duplicates for the Asiatic Society at Calcutta, and communicate their description, &c., to that Society, who could then purchase them or not, as they pleased (Government Resolution No. 3269, dated 29th October 1878, G. D.)

The following Resolution of the Government of India in the Revenue and Agricultural Department is published for general information (*B. G. G.*, 1889, pp. 417 and 418) :—

"Cir. No. $\frac{21}{4\cdot2}$ Arch.

Extract from the Proceedings of the Government of India, Revenue and Agricultural Department,—dated 28th March 1889.

The definition of treasure as framed in the original Bill was enlarged by the Select Committee for the express purpose of covering sculptures and similar antiquities, as well as coins.

3. The Treasure Trove Act permits the Government to claim the possession of treasure of which, as laid down in section 4 of the Act, the amount or value is over ten rupees. Such 'value' is not, as in section 16, the price which the mere materials of the article found would fetch, but the market value or the price which the discovered object might, if offered for sale, reasonably be presumed to realize. The conditions under which the finder of treasure is to be compensated in cases where the claim of Government is asserted, are described in section 16 of the Act. The value at which the treasure is to be assessed is there defined as the value of the materials only plus one-fifth of such value. The extra price which the discovered article might realize in virtue of its value as an object of archæological interest need not enter into account. It will not therefore be difficult to secure for preservation in national institutions the most important antiquities which may be discovered in any part of British India, without inordinate expenditure.

4. The Governor General in Council now desires that the coditions under which the Government can claim articles of antiquarian interest should be made generally known, as well to the officials upon whom the reponsibility vests of giving effect to the provision of the Treasure Trove Act, as to the general public. His Excellency in Council is convinced that the Local Governments and Administrations will, on every occasion on which it may be considered proper to exercise the rights conferred by the law upon the State, act with due liberality, and with proper consideration for the natural claims and expectations of the finders of treasure, and will bear in mind that the object in view will be defeated if those who may discover objects of archæological value are not induced by the prospect of a sufficient reward to make their discoveries known to the officials of Government. On the other hand, it must be enjoined on all servants of the State that it is their duty to protect national interests so far as to ascertain the particulars of any discovery which may be brought to their notice, and to report the circumstances to the proper authorities under such rules and instructions as may be laid down for their guidance by the Local Government or Administration.

5. With regard to antiquities which cannot be brought under the definition of 'treasure' in the Act of 1878, and of which the location in a national institution is considered desirable, no further action can be advised than to ascertain from the finder whether he is willing to surrender the object to Government at a reasonable price.

6. Nothing in this Resolution should be held to interfere with the instructions which are contained in the Resolution No. $\frac{1}{56\text{-}71}$ of 8th June 1883 for dealing with discoveries made by Government officials and which, for the purpose of easy reference, are reprinted in the Appendix to this Resolution. The same instructions will be applicable, *mutatis mutandis*, to objects of archæological interest claimed and purchased under the Treasure Trove Act.

7. With the above remarks the Governor General in Council is content to leave the matter to the discretion of Local Governments and Administrations, but desires that any action which may be taken under this Resolution should be briefly noticed in the Annual Report of the Department of Land Records and Agriculture, as the Department which in most provinces is connected with the administration of Museums.

Extract from the Proceedings of the Government of India in the Home Department (Archæology),—No.1—58-71 dated Simla, the 8th June 1883.

I.—All discoveries of objects of archæological interest made by Government officers (whether belonging to the Archæological Survey or not) should be reported by them to the head of the Local Government or Administration within which the discovery is made. When such a report is made, it will rest with the Local Government or Administration to issue orders for the preservation of the objects discovered *in situ*, or for their removal to a Provincial or Local Museum, where such exists, in accordance with the general principles set forth in the paragraphs marginally quoted above. Where there is no Local Museum, the object should be sent to the Imperial Museum, if the Trustees, to whom information of the discovery should be conveyed by the Local Government or Administration, should so desire.

II.—Local Governments and Administrations will furnish the Trustees of Indian Museum with lists of all Museums in the province and with descriptive catalogues of their contents, and will report to the Trustees all fresh discoveries dealt with under the preceding clause.

III.—The Trustees will be at liberty to arrange with Local Governments and Administrations either for the transfer to the Indian Museum of any object the Trustees may require or for acquiring it by exchange or for obtaining casts or other impressions of it, any points as to which there is a difference of opinion being referred to the Government of India for final decision. In dealing with such application from the Trustees, Local Governments and Administrations will not fail to attach due weight to the desirability of completing any particular archæological series to which the Trustees of the Indian Museum may attach importance."

The Collectors should be requested to impress on all táluka and village officers that it is their duty to protect national interests so far as to ascertain the particulars of any discovery which may be brought to their notice, and to report the circumstances to the proper authorities.

2. In this Presidency no museum is under the administration of the Director of Land Records and Agriculture but the Collectors should inform that officer of any action that may be taken by them under these orders with a view to the embodiment of the information in his annual report. (G. R. No. 1672 of 30th April 1889, G. D.)

In paragraph 2 of Government of India, Home Department (Public), No. 46—1668-82, dated 9th October 1884, quoted in Government Resolution, General Department, No. 3950, dated 30th October 1884, the Government of India stated that Collectors and District

officers should be instructed to *invariably* acquire under section 16 of the Act the whole of such coins found.

2. Such charges would be debited to the minor head 'Charges for search for hidden Treasure' under 32, Miscellaneous. (G. R. No. 2423, 21st June 1889, G. D.)

Orders and Opinions.

B. VIII of 1867, section 19, does not apply to Treasure Trove.

Memo. by L. R.:—"Section 19, Bombay Act VIII of 1867, is intended primarily to apply to lost or strayed property which is usually made over to the charge of the police because the finder has no claim to it. When the law as to treasure trove was in a state of uncertainty, it was perhaps expedient for any person finding hidden treasure to make over charge of it in the same way to the police patel, and before the passing of Act VI of 1878 it might perhaps have been argued that it was the duty of the police patel to take charge of such treasure. But *leges posteriores leges priores contrarias abrogant*, and so far as regards treasure trove the special provisions of Act VI of 1878 must be held to supersede those of section 19 of Bombay Act VIII of 1867, even if it be correct to argue that the latter enactment was formerly applicable to such treasure. Now, moreover, it seems to be scarcely right to regard treasure trove as "unclaimed property," because Act VI of 1878 gives the finder a very considerable claim thereto if it turns out to be ownerless." (G. R. 6737, J. D., of 9th October 1880.)

Powers of Mámlatdárs under the Act.

Memo. by Acting L. R.:—When the Mámlatdárs were appointed* under section 3 of the Act to perform in their several charges the functions of Collectors, they became Collectors for all the purposes of the Act, and Government cannot lawfully restrict or limit the power which they are invested with. If the finder of treasure of any value over ten rupees gives notice to the Mámlatdár, that officer is bound by law to follow the procedure laid down by the Act. Rules regulating procedure can be made, but none can be made in restraint of those powers. The Mámlatdárs' proceedings should be closely and carefully watched by the Collectors. (G. R. 2390 of 23rd July 1881.)

Treasure found in Government land.

Memo. of the Ag. L. R.:—There is no express provision in the Treasure Trove Act, 1878, for the case of treasure found hidden in soil, the ownership of which vests in Government, as for instance, a public road, which under section 37 of the Land Revenue Code, 1879, is the property of Government.

Section 5 of the Treasure Trove Act provides that when the place in which the treasure was found belongs to some person other than the finder, the Collector shall serve on such person a special notice to the same effect as the notification in the *Government Gazette*; and if such person appears and claims a share as owner of the place, the Collector is required to apportion the said person one-fourth and the finder three-fourths of the treasure.

It appears, therefore, that according to the Act a notice ought to be served on Government and a formal appearance made on behalf of Government before the Collector, in order to warrant a division of the property between Government and the finder; otherwise the right of Government must, under section 6 of the Act, be considerd forfeited. Attention is drawn to G. R. No. 3269 of 29th October 1878 regarding supply of coins to learned societies. (G. R. No. 255 of 27th January 1878.)

Treasure found by convict gang.

1. During excavation work carried on at Bijápur by the extra-mural convict gang one of the convicts unearths buried treasure valued at more than Rs. 10.

2. The Superintendent of the Gang claims to be considered the finder, the gang being under his immediate orders.

3. Government, and not the Superintendent of the Convict Gang, or the convict, who found the treasure, should be regarded as the finder of the treasure for the purposes of Act VI of 1878. (G. R. No. 710 of 23rd February 1886, G. D.)

Meaning of the word "Finder."

Memo. by the Ag. L. R.:—"There is no definition of the term 'finder' in the Indian Treasure Trove Act, 1878, and it must, therefore, be interpreted according to principles of law which are generally accepted; while under the general clauses Act, 1868, the word 'finder' in the Indian Treasure Trove Act includes 'finders'.

"2. If two or more persons find treasure concealed in the ground, they all come within the meaning of 'finder' in the Act. So, too, if a person employs another person to dig the ground and search, they would both be finders of any treasure found; but it results from the general principle of law, *quicquid acquiritur servo acquiritur domino*, that only the master or employer, and not the servant or labourer, would be entitled to the treasure or

* Mámlatdárs were so appointed by G. R. 1326, April 25, 1881.

to share it with the owner of the ground. There is also the familiar maxim, *qui facit per alium per se ipsum facere videtur,* from which it may be inferred that the master or employer must be presumed to have discovered through his agent what he would in all probability have discoverd himself, had he executed the work with his own hands and not by paid agency.

"3. There is, in fact, an implied contract to this effect in every engagement between master and servant, principal and agent. There may, of course, be instances in which a servant or agent may accidentally and by good luck find treasure in his master's or principal's ground and be entitled to claim it or share it with him. The question will depend in each case on whether the servant or labourer was actually performing the work for which he stipulated when he discovered the treasure.

"4. It is true that section 12 of the Act contemplates cases in which either subsequent to, or in anticipation of, the discovery of treasure, the finder and the owner have entered into an agreement regarding the disposal thereof; but I do not think the legislature intended by this, that unless a master or employer shall enter into a special agreement with every servant or labourer he employs regarding the disposal of any treasure that may possibly be discovered in the performance of the contract work, the servant or workman who happens to be the actual finder, and not the master or employer, is entitled to the treasure.

"5. I may give the following illustration of the agreement referred to in the above section, and the implied contract between principal and agent. Dr. Schliemann entered into certain arrangements and agreements with the Government of the Sultán of Turkey and the owners of the ground, acquiring a right to excavate the ancient mounds on the plain of Troy to search for the ruins of the Ilium of Homer, a search which would no doubt involve the discovery of buried treasure of great value. He employed a great number of operatives and supervisors to excavate so many square feet of ground a day on fixed wages. Whatever hidden treasure was found became the property of Dr. Schliemann, subject to the terms of his agreement with the Sultán and the owners of the ground, the operatives having no share whatever in the same. These are the principles of law which in such case may be found to be observed all the world over.

"6. The object of passing the Indian Treasure Trove Act was not to interfere with any such fixed principles of law hitherto governing such cases, but to insure a proper, regular investigation of the ownership of found treasure before declaring it to be ownerless and to vest in the finder. The meaning of 'finder' was left to be determined by the tribunals, and it would have been inconvenient to have narrowed the signification of the term by defining it.

"7. Lastly, there is the question whether a servant or labourer, not being a finder entitled to treasure found by him in fulfilling his contract of service as against his master or employer, can be deemed to be 'finder' for the purposes of section 20 of the Act, that is to say, for the purpose of being punished if he fails to give notice of the treasure to the Collector as required by section 4 of the Act.]

"8. With regard to this question, I think that if a servant or workman hands over treasure he has found in performing the work contracted for to his master, it becomes the duty of the latter to give the requisite notice to the authorities. If, however, the servant or workman should conceal the fact of the discovery from his employer and carry away the treasure for his own use, he would no doubt be properly convicted and punished as a 'finder' who had failed to give the notice required by section 4, but still more properly would he be convicted of criminal mis-appropriation of property. As the term 'finder' is a wide one and undefined, it would be difficult to hold that such a person was not a finder liable to the prescribed penalties; and such a result would not involve the forfeiture of the treasure to Her Majesty, because the person so convicted never had any right or title therein, as against his principal, which could be thus forfeited." (G. R. No. 3747 of 20th September 1882, G. D.).

Collector to proceed under Section 5 even if finder gives no notice.

Memo. from the L. R.:—"Looking to section 20 of the Treasure Trove Act, which enacts that 'if the finder of any treasure fails to give notice * * * * * * *, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,' I am of opinion that it is intended that the Collector shall take proceedings under section 5 and the following sections, even when the finder gives no notice. Otherwise, the share of the treasure to which the finder would be entitled could not be ascertained. It cannot have been intended by the Legislature that a finder of treasure should have it in his power to frustrate the object of the Act by neglecting to give notice to the Collector of his having found such treasure. The words 'on receiving a notice under section 4,' which occur at the beginning of section 5 of the Act, should, therefore, I think, be taken to refer only to those cases in which a notice is given." (G. R. No. 4332 of 16th December 1886, G. D.).

Treasure found buried in a private house.

Memo. of the L. R. :—Looking to the definition of Treasure in Act VI of 1878 it appears to me that the property now in the hands of the authorities which was found by digging in the house of Shivsangapa, deceased, is treasure trove and must be dealt with under the provisions of the Act.

2. The inconvenience of holding the Act applicable to money found buried in private houses is real, but the wording of the law is so comprehensive that I do not see how such money can be excluded from its provisions. Searches by the authorities in private houses would not usually take place, as they could not be conducted without the consent of the persons in possession. In the present case such consent appears to have been given.

3. Basana and Takava may be liable to the penalties provided by section 20, but it is not necessary for Government to enforce them or to direct a prosecution if it does not think proper to do so.

4. As the deceased left heirs who were in possession of his house when he died, Regulation VIII of 1827 does not seem to apply and Chapter XLIII of the Criminal Procedure Code seems equally inapplicable. (G. R. No. 282 of 25th January 1882, G. D.).

Procedure when finder fails to give notice and converts the Treasure.

Memo. of the Acting L. R. :—1. One Bhana Hira found treasure and instead of giving notice and depositing the treasure in the Government Treasury or giving security for its production as required by section 4 of the Act, he appropriated it to his own use and brought with it ornaments worth Rs. 80-4-0 and a house worth Rs. 210.

2. On procedure duly taken under the Act the treasure was declared ownerless and the owner of the place where it was found was awarded one-fourth thereof. The balance was declared forfeited to Government.

3. The Commissioner raises the question whether the order of forfeiture applies to the house and ornaments purchased by the finder with the treasure or its proceeds.

4. The Act makes no provision as to the way in which treasure trove is to be recovered if appropriated by the finder.

"It only provides that the finder's share or the money in lieu thereof shall vest in Her Majesty and that the finder shall be liable to certain penalties.

"The remedy therefore appears to be left to the ordinary law.

5. It is to be noted that under section 20 the finder's share is not forfeited to Government by the order of the Magistrate, but vests in Her Majesty on the finder's default on giving notice.

"The property vested therefore before, and irrespective of, the Magisterial order which therefore cannot affect in any way the right of Government.

6. The treasure having vested in Government on such failure to give notice, the finder became civilly liable for the conversions as soon as he applied the treasure to his own use.

"But as the Act provides no procedure for recovery from the finder, it seems that if the Magistrate has omitted to make an order as to the ornaments under section 517, Criminal Procedure Code (*vide* Explanation to that section) the only course open would be a civil suit against the finder for the conversion.

7. If the finder has not been proceeded against before a Magistrate, I think that he should be, and it is probable in such case if the ornaments are produced, and it is proved that they are the property for which the treasure has been converted or exchanged, a portion at least of the finder's share will be recovered by the Magistrate's order in the case (517, Criminal Procedure Code, Explanation).

8. In the absence of judicial decision Government cannot claim any specific part of the finder's property as acquired by conversion or exchange of the treasure.

"The whole of the finder's property however will of course be liable whether for the fine that may be imposed under section 20 or civilly for the value of the treasure converted by him." (G. R. No. 3722 of 20th October 1888, G. D.)

THE MUNICIPAL TAXATION ACT, 1881.

(Notn. No. 4041, *B. G. G.*, 1881, pp. 757-758.)

In exercise of the powers conferred by section 3 of Act XI. of 1881 (The Municipal Taxation Act, 1881), the Governor General in Council is pleased to prohibit the levy by any Municipal Committee upon the persons described below of taxes of the following kinds :—

Persons exempted.

All persons exclusively in military employ, or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, and compelled by the exigencies of military duty to reside within the limits of a Municipality.

Taxes from the operation of which exemption is granted.

(1) Municipal taxes on salaries.

(2) Municipal taxes on professions, trades, callings, officers or appointments.

(3) Municipal taxes on horses,* mules, or ponies kept for military duty.

(4) Municipal tolls leviable on any ferry or road in respect of animals or vehicles kept or used for military duty.

In exercise of the power conferred by section 24 of Act III. of 1880 (The Cantonments Act, 1880), the Governor General in Council is pleased to declare that in any Cantonment situated in British India which may have been, or may in future be, brought under the operation of a Municipal Act, the following classes of persons shall, when on duty in such cantonment, be exempted from the operation of taxes of the following kinds :—

Persons exempted.

All persons exclusively in military employ or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War.

Taxes from the operation of which exemption is granted.

(1) Municipal taxes on salaries.

(2) Municipal taxes on professions, trades, callings, offices or appointments.

(3) Municipal taxes on horses,* mules, or ponies kept for military duty.

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* G. R. No. 35, 7th January 1884, General Department, Circulating letter from Government of India, Home Department, (Municipal) No. 182, 22nd December 1883.

The exemption extends to the number of horses for which an officer draws horse allowance, or for which horse allowance is included in his pay.

(4) Municipal tolls leviable on any ferry or road in respect of animals or vehicles kept or used for military duty.

1. In further exercise of the power conferred by the same section, the Governor General in Council is pleased to prohibit the levy, in any cantonment in British India, of any municipal tax whatsoever on public property, such as animals or vehicles.

2. In this order the expressions "municipal tax," "municipal taxes," and "municipal tolls," include any tax or toll imposed by virtue of the provisions of a Municipal Act under the operation of which any cantonment may have been, or may in future be, brought.

If the officer goes on leave keeping up his horses, the exemption does not cease to have effect. Provided an officer maintains his establishment of horses, their disposal during his absence is a matter of private arrangements with which the authorities should not interfere.

Generally speaking, an officer not employed on military duty is not entitled to exemption, but a specific reference should be made regarding any class of officer in respect of which a doubt exists as to the application of the rule. (G. R. No. 35 of 7th January, 1884, G. D.)

REVISED RULES FOR REGULATING THE BESTOWAL AND CONTINUANCE OF GOVERNMENT GRANTS-IN-AID TO CHARITABLE DISPENSARIES AND THE ADMINISTRATION OF DISPENSARIES TO WHICH SUCH GRANTS ARE MADE.

Conditions on which Government aid will be granted.

1. Government will sanction the establishment and aid in the maintenance of a charitable dispensary only when a municipality or a district local board or some private individual undertakes to provide for the establishment or maintenance or for the establishment and maintenance of such dispensary (as the case may be), subject to the provisions of these rules.

2. The previous sanction of Government shall be necessary to the establishment of any new dispensary for which it is intended to ask any of the benefits of these rules.

Establishment of new Dispensaries.

3. Applications for such sanction shall be made to Government either through the Surgeon-General with the Government of Bombay or through the Collector of the district. In the latter case the Collector shall forward the application to Government through the Surgeon-General.

4. In forwarding any such application to Government the Surgeon-General shall report whether, in his opinion, the application should be sanctioned, and whether there is a Hospital Assistant or Assistant Surgeon (according as the importance of the place where it is proposed to establish the dispensary may seem to require) available whose services may be lent for employment at such dispensary.

5. Every such application shall be forwarded to Government through the Sanitary Commissioner who shall report upon it.

There will be three standard plans for dispensaries and the application should state which one of the three standards it is desired to construct.

The standard plans are classed A., B. and C., and the requirements for each will be as follows:—

Class A.

Main building with verandah on one side, containing—

1. A dispensary-room.
2. A prescribing-room.
3. A store-room.
4. Medical officer's quarters consisting of—
   - A room 16′ × 12′.
   - A bath-room.
   - A zenana compound.

Detached buildings.

5. Latrine, one.
6. Dead-house.
7. Temporary shed for servants.

Class B.

Main building with verandah, containing—

1. A waiting-room.
2. A surgery and dispensary-room.
3. A male ward for 4 beds.
4. A female ward for 1 bed.
5. An examination-room.
6. A store-room.
7. Medical officer's quarters consisting of—
   - A bed-room.
   - A living-room.
   - A bath-room.
   - A cook-room.

Detached buildings.

8. Latrines, three.
9. Dead-house.
10. Quarters for servants including cooking place.
11. Bathing plinth.

Class C.

Main building with verandah all round, containing—

1. A surgery and dispensary-room.
2. An examination-room.
3. A store-room.
4. A male ward for 4 beds.
5. A female ward for 4 beds.

Detached buildings.

6. Medical officer's quarters with verandah on two sides, consisting of—
   A sitting-room.
   A bed-room.
   A cook-room.
   A bath-room.
   Privy.
7. Dead-house.
8. Bathing plinth.
9. Cooking shed for patients.
10. Latrines, three.
11. Servants' quarters with cooking places, three.
12. Halálcore's quarters, one.

In Sind the male ward in Class C. will consist of 6 beds and the female ward of 2 beds.

6. No such application will be sanctioned by Government unless Government are satisfied that the dispensary building will be adequately furnished.

The minimum supply of furniture that will be considered requisite will be as follows, except that cots will not be required in dispensaries of the A. Standard and only 5 cots in the B. Standard :—

2 presses for medicines,
2 tables for compounding, writing, &c.,
1 table for operations,
8 cots,
6 benches,
6 chairs,
2 lamps,
1 table and 1 bucket for dead-house,

Shelves, fittings, water and cooking vessels in reasonable number.

Supply of Surgical Instruments, &c.

7. If Government sanction any such application, the first supply of all needful surgical and other instruments will be issued gratuitously from the Government Medical Stores.

The list of surgical instruments, &c., given in the appendix comprises the fullest supply which will be allowed to any dispensary.

It will in every case be in the discretion of the Surgeon-General with the Government of Bombay to modify the list so as to prevent needless expenditure.

Supply of Medicines.

8. Every charitable dispensary supplied under the sanction of Government with medicines from the public stores will be charged for the same at the rate of ten per cent. over their cost price.

Annual Grants-in-aid.

9. When Government sanction an annual grant-in-aid for the maintenance of a dispensary, the amount to be paid shall not ordinarily exceed one-half the total cost of the maintenance of the dispensary as estimated by the Surgeon-General with the Government of Bombay, and shall, as a rule, be regulated according to the population of the place in which the dispensary is to be maintained. The grant-in-aid must be drawn in the year it is due.

The Surgeon-General's estimate of the cost of maintaining a dispensary shall include the pay and allowances of an Assistant Surgeon of the third class if the charge is to be held by an Assistant Surgeon, and of a Hospital Assistant of the highest class if to be held by a Hospital Assistant.

10. The amount of the Government annual grant-in-aid to any dispensary shall be subject to revision by Government once every three years. The grant-in-aid may, if Government think fit, be at any time discontinued. Its continuance shall at all times be conditional on :

(*a*) the maintenance of the dispensary building and its furniture by the district local board, municipality or individual responsible therefor in good condition and repair, to the satisfaction of the Surgeon-General with the Government of Bombay ;

(*b*) the opinion of Government as to the need for continuing to maintain the dispensary in the locality in which it is situated ;

(*c*) the due observance, in or in respect of the dispensary, of the provisions hereinafter contained, or of any other similar provisions that may hereafter from time to time be prescribed by Government.

Administration of Government-aided Dispensaries.

11. Every dispensary at present in receipt of an annual grant-in-aid from Government situated in any area subject to the authority of a district local board shall, on and from the date of the first establishment of such district local board, be transferred to the management, control and administration of the said board, whose duty it will be, under sections 30 (*b*) and 49 (*b*) of the Bombay Local Boards Act, 1884, to maintain the same.

12. Every dispensary in receipt of an annual grant-in-aid from Government situated in any Municipal district in which the Bombay District Municipal Acts, 1873 and 1884, are in force shall be under the management, control and administration of the said municipality, whose duty it will be to maintain the same. *Vide* section 24, clause (13) of B. III of 1873, as amended by section 49, clause (*c*) of B. II of 1884.

The amount of the grant-in-aid paid by Government in respect of any dispensary such as is referred to in the above Rule or in Rule 11, or of any new dispensary that may be hereafter established by a district local board, or in a municipal district by the municipality of such district, shall be credited to a separate fund belonging to each such dispensary to be called the dispensary fund.

13. Nothing in the last three rules shall apply to any dispensary endowed or partly maintained by a private individual, which Government have agreed or may hereafter agree to aid on specific terms. In every such case the terms so agreed upon will be strictly adhered to.

14. When a dispensary under the management of a municipality is partly supported by the district local board or *vice versâ*, the amounts of the respective contributions of the two bodies towards the maintenance thereof shall from time to time be determined by the municipality and the district local board in consultation or by a joint committee of the two bodies.

Appointment and Duties of Dispensary Committees.

15. The affairs of every dispensary for which Government give a grant-in-aid shall be supervised by a Dispensary Committee appointed by the district local board or municipality to whose management such dispensary is subject, or, in the case of any dispensary not subject to the management of a district local board or of a municipality, by Government or by such officer as Government empower in this behalf.

16. The Dispensary Committee shall see that the registers supplied to the Medical Officer in charge of the dispensary by the Surgeon-General are regularly and carefully written up, that [illegible] hours are strictly observed, and that patients

(To be inserted at the foot of Form No. 7 of the Forms appended to the Rules made under Sections 51, 52, 53 and 69 (*c*) and (*d*) of the Bombay Local Boards Act, 1884, at page 258 of the Compilation of Rules in force in the Revenue Department.)

[Notification No. 568, *Bombay Government Gazette*, 1892, Part I-A, pages 525 and 526.

At the foot of Form No. 7 appended to the said Rules there shall be added the following :

"Certified that this muster-roll has been correctly prepared and that payments have been made to the proper persons.

Dated

Local Fund Karkun or Overseer.

Countersigned,

Member of the Works Committee, or Vice-President."

face.

19. All payments due to Government servants lent to dispensaries shall be made at the same rates and with the same regularity and punctuality as if the servants were in Government employ :

Provided that if an Assistant Surgeon of the first or second class is appointed to any dispensary, the difference between his pay and allowances and those of a third class Assistant will be borne by Government.

To clause 3 of Rule 19 add the following :—

[Notn. No. 438, B. G. G., 1897, Pt. I, p. 95.] "The Secretary to the Surgeon-General may countersign on behalf of the Surgeon-General."

21. Every [illegible] the Co

(*a*) quarterly reports of their visits in accordance with Rule 16;

(*b*) annual accounts, as soon as possible after the 31st March annually, giving a complete abstract of receipts and disbursements during the year, the balance at the Committee's disposal, and other detailed particulars prepared and signed by the Medical Officer in charge of the dispensary on and according to a printed form to be obtained direct from the Superintendent, Government Central Press, on an indent accompanied by a remittance.

It shall be the duty of the Collector to call for these reports and accounts if they are not furnished punctually, and if he discovers any error in any monthly or annual account forwarded to him he shall at once return such account for correction and re-submission. On receipt of monthly and annual accounts which after examination appear to the Collector to be correct, he shall countersign and forward them to the Surgeon-General with the Government of Bombay or in Sind to the Deputy Surgeon-General.

22. No expenditure should be incurred which has not been previously estimated for and sanctioned by the Surgeon-General in the regular monthly estimate, provided that a Dispensary Committee may, without the previous sanction of the Surgeon-General, purchase with the funds at its disposal warm clothing, additional medicines, and extra furniture in cases of emergency or in unforeseen circumstances rendering desirable the immediate obtaining of such articles. Any expenditure so incurred should, however, be reported without delay to the Surgeon-General.

23. No new buildings should be constructed; no additions made to existing buildings without the previous sanction of Government, provided that urgent repairs to buildings and

[Notn. No. 4103, B. G. G., 1897, Pt. I, p. 1380.] For the words "without the previous sanction of Government" occurring in Rule 23, substitute the following :—

"Without the previous sanction of the Commissioner of the Division concerned, or of the Commissioner in Sind, as the case may be, if dispensary funds alone are concerned, or of Government, if Provincial Funds are in any way affected."

dispensary shall be open at any time to inspection by Deputy Sanitary Commissioners, District Revenue Officers and by the Civil Surgeon of the District.

Civil Surgeons shall visit every dispensary in their districts once a year.

The Sanitary Commissioner and Deputy Sanitary Commissioners shall inspect dispensaries while they are on their tours.

Reports by Inspecting Officers.

26. Inspecting officers shall report to the Surgeon-General with the Government of Bombay fully on the conduct and qualifications of the Assistant Surgeon or Hospital Assistant in charge of a dispensary and on the successful working or otherwise of the dispensary, adding such suggestions as they may think it advisable to offer. The reports of Civil Surgeons in the Presidency proper shall be submitted direct to the Surgeon-General with the Government of Bombay; those of Civil Surgeons in Sind shall be submitted through the Deputy Surgeon-General. Those of Deputy Sanitary Commissioners shall be submitted to the Sanitary Commissioner and shall be forwarded by that officer to the Surgeon-General. The Surgeon-General shall furnish to the Collector of the district either a copy of or such extracts from the inspection report as the latter officer may require for his annual Administration Report.

Internal management of Dispensaries and duties of Medical Officers.

27. The following rules shall be observed and enforced with regard to internal management and the duties of medical officers in every Government-aided dispensary (*viz.*)—

(1). The dispensary shall, as a rule, be open from 7 to 10 A.M., and from 5 to 7 P.M., for the treatment of ordinary out-patients.

(2). The dispensary shall not be left by the officer in charge except for urgent reasons; and he shall not at any time be compelled to visit a patient at his own residence, except in urgent cases and when the patient cannot be moved, or when an epidemic is prevailing or when the patient is a Government servant entitled to his attendance at his own residence. Visits of the kind are to be strictly limited to the town or immediate neighbourhood, to places where cholera or epidemic disease prevails within the limits of a six hours' journey from and to the dispensary, and excepting when accident or serious sudden illness may occur to a Government official entitled to attendance at his residence.

(3). The Medical Officer shall abide by the following rules for regulating the cases in which and the rates at which medicines and medical attendance and advice are to be charged for:

(*a*) All persons paying Income Tax, all persons paying land revenue to the amount of Rs. 300 and upwards per annum, all persons whose income from land held by them is Rs. 500 per annum and upwards, and all servants, whether Municipal or Local Board, or servants of any firm or company, pensioners, other than military, servants of Native States, including persons of neighbouring villages of Native States, drawing Rs. 40 per mensem or upwards, who may attend dispensaries for medical advice and treatment for themselves or their household, shall pay the following charges:—

8 annas for consultation at the dispensary, and 3 annas for medicines, including an ordinary bottle of medicine and anything else prescribed.

4 annas for every succeeding consultation, and 3 annas for medicines, provided that Government servants who are entitled under the orders of the Government of India contained in their Resolution No. 14—447—64,* dated 23rd October 1884, to gratuitous medical attendance and medicines shall be exempted from payment of the fees at dispensaries where an Assistant Surgeon or a Hospital Assistant is stationed by Government.

(*b*) All persons of the classes mentioned in Rule (*a*), if attended for themselves or their household at their own houses within the limits of the town or village in which the dispensary is situated, shall pay Re. 1 for each visit of the Medical Officer in charge of the dispensary, and 3 annas for medicines. Non-paying patients will not be attended at their houses save in cases of urgent necessity. Such attendance is not to be so given or demanded as to prevent the fulfilment of other duties.

(1). If attended beyond the limits of the village or town in which the dispensary is situated they shall pay Rs. 2 for each visit, and 2 annas per mile for the distance travelled, unless a suitable conveyance is provided to and from the patient's house, and 3 annas for medicines. The Medical Officer shall not be required to travel more than 10 miles unless there is railway communication, when his fare according to the scale laid down by Government for the travelling of officers of his class shall be paid in addition to the fee and charge for medicines.

(*c*) Fees for attendance on patients away from dispensaries shall be the property of the officer in charge of the dispensary. Fees for attendance on patients at the dispensary and all charges for medicines shall be credited to the Dispensary Fund and to Government in the same proportions as the Local or Municipal Board and Government contribute to the dispensary.

(*d*) Fees for visits between sunset and sunrise shall be double the above rates and shall be the property of the Medical Officer.

(*e*) Where the Medical Officer is an Assistant Surgeon he shall be entitled to receive double the above fee.

(*f*) Fees for operations, except such minor ones as tooth-drawing, should be the subject of private arrangement between the patient and the Medical Officer.

(4). The Committee shall determine whether the dieting of in-patients shall be at the charge of the Dispensary Fund or otherwise.

(5). When there is not sufficient accommodation for all applicants for admission to the dispensary, preference shall be given to persons suffering from severe injuries or to persons who have to undergo surgical operations.

(6). Vaccination shall be carried on by dispensary officers in such dispensary towns as the Sanitary Commissioner may direct.

(7). It shall be the duty of the Assistant Surgeon or Hospital Assistant in charge of a dispensary, when there is no other medical officer at the station to make the usual *post-mortem* examination and report, according to the rules laid down in section

*Government Notification, General Department, No. 4243, dated 19th November 1884, published at page 1005 of the *Bombay Government Gazette* of the 20th idem, Part I. All clerks of Army Head-quarters offices are entitled to gratuitous medical attendance and medicines *for themselves and their families.*

XXIV., clause 43 (1—20), Medical Code, on every corpse sent to him for this purpose by any Magistrate or Police Officer, and to retain *post-mortem* notes for the information of inspecting officers and others in the form prescribed by the Surgeon-General with the Government of Bombay.

(8). Registers of sick, &c., shall be regularly kept in the usual forms.

(9). Every patient, on his name being entered on the register, shall be provided with a paper, according to Form No. 18 of the Civil Medical Department, on which the prescriptions, and, in important cases, the symptoms shall be noted at each visit; on the medicine being dispensed, the case diaries shall be retained in the dispensary, arranged, and re-issued to the applicant at the next visit.

(10). Separate monthly returns of in and out-patients in Form C. M. 29 shall be transmitted to the Surgeon-General in the Presidency and to the Deputy Surgeon-General in Sind.

(11). Annual returns and reports of the medical and surgical work of the dispensary shall be carefully drawn up and punctually submitted by the Medical Officer in charge on or before the 10th January, accompanied by the diaries of six of the most important cases which have occurred during the year among the in or out-patients.

(12). A list of the instruments belonging to the dispensary shall be kept for the purposes of inspection and verification, and shall be corrected or renewed from time to time under the signature of the inspecting officer.

Instruments and Medicines.

28. The instruments provided gratuitously by Government on the first establishment of a Dispensary cannot be returned into store in exchange for others, nor can any instruments be afterwards obtained from the Government stores except upon payment. All instruments which may have been originally obtained by purchase or otherwise from the Government Medical Stores must, when no longer required, be returned to the Government Medical Stores or disposed of as the Surgeon-General may direct.

29. Repairs to instruments may be made by the Cutler to the Medical Stores, Bombay, for which purpose the instruments may be sent to Bombay. The full cost of such repairs must be met by the dispensary concerned.

30. Indents for instruments or medicines to be supplied from the Government Medical Stores must be countersigned by the President or the Vice-President of the district local board or municipality, if the dispensary is managed by a district local board or municipality, and by the Collector or his Assistant or Deputy in any other case, and submitted, through the Collector, to the Surgeon-General in the Presidency and in Sind to the Deputy Surgeon-General for sanction. After sanction, the indents will be forwarded to the Store-keeper, for compliance. The Store-keeper will forward the medical stores direct to the dispensaries, and will furnish the Examiner, Medical Accounts, with a list of the stores for pricing.

31. The authority who countersigns an indent shall be careful to see that the funds at the disposal of the Committee are sufficient to meet the charge for the medical stores indented for. If there is any doubt about this and the cost of the stores is not known, the price should be ascertained before the indent is sent on.

32. The following arrangements have been made for the adjustment of the Military Department debits for medicine and medical stores supplied to charitable dispensaries :—

(1) The Military Department will debit through its account current the full value of the supply *plus* the authorized percentage for departmental charges, &c., and any expenditure that may be disbursed in the Military Department for carriage of the stores.

(2) The Collector of the district will be advised by the Accountant General of the debit and should see that the value is duly recovered and credited without delay. He should advise the Accountant General if any difficulty is experienced.

The military debits will be held in the books of the Accountant General's office to the debit of "Advances Recoverable," and the credits at the treasury should be classed under the same head in a special column subordinate to "Miscellaneous Advances" headed "Medical Supplies from Military Departments"; the number and date of Accountant General's office advice should be noted against each credit in the receipt schedule referred to in paragraph 2 of Consolidated Circular I.

The Medical Stores Department will, as far as possible, avoid making payments for railway and other forwarding charges for medical stores; these, when the stores are sent "to pay" (or bearing), should be disbursed by the officer to whom they are consigned, who, in the case of charges to be borne by Government, should include them in his "Medical Contingent Bill" as final charges, whether they belong to his district or not; but when they are recoverable from a charitable dispensary and it is necessary to pay the charges direct from the treasury, the

Officer should debit the amount to Advances Recoverable, Miscellaneous Advances, Items," and take prompt steps to have the amount recovered and credited in his own an treasury, if the latter is more convenient.

[PAGE 533 (*b*).]

For Rule 33 substitute the following :—

[Notn. No. 1674, *B.G.G.*, 1894, Pt. I, p. 405.]

"33. Assistant Surgeons when in charge of dispensaries will receive the pay of their grade and a charge allowance varying from a minimum of Rs. 20 to a maximum of Rs. 50 per mensem, increments between these limits being given upon the recommendation of the Surgeon-General with the Government of Bombay founded upon superior qualification or approved service.

"The old scale of charge allowance, viz. Rs. 150 for the First and Second Classes and Rs. 100 for the Third Class, will be continued as heretofore to Assistant Surgeons now entitled to it."

LIST OF SURGICAL INSTRUMENTS, &C., SUPPLIED TO CHARITABLE DISPENSARIES BY GOVERNMENT ON THEIR FIRST ESTABLISHMENT.

Surgical Instruments.			Syringe, ear, brass	No.	1
s, metallic	Set	1	Do. glass, for hydrocele ...	„	1
ers, elastic, gum	„	1	Do. pewter, 1 lb. and 4 ozs. size	„	1
ments, amputating, Capital Case, A.	Case	1	Do. do. urethra, male ...	Nos.	2
). cranium dissecting, case, large ...	„	1	Do. do. vaginal... ...	No.	1
). cupping, case, large...	„	1	Trusses, common, double and single...	Nos.	2
). dressing, pocket case, large	„	1	*Sundries.*		
			Basin, bus	No.	1
			Urinal, pewter	„	

[PAGE 533 (*b*).]

[Notn. No. 2659, *B.G.G.*, 1892, Pt. I, p. 752.]

In the Appendix the words "with pestle" should be added to each of the entries "Mortar, glass" and "mortar, wedgewood" under the head of "Sundries."

[PAGE 533 (*a*).]

[Notn. No. 4003, *B.G.G.*, 1891, Pt. I, p. 922.]

In the penultimate line of Rule 30 *for* the word "Medical" should be substituted the word "Commissariat."

RULES FOR THE GUIDANCE OF JUDGING COMMITTEES OF DISTRICT HORSE SHOWS.*

(Notn. No. 1035, *B. G. G.*, 1882, Pt. I., p. 109.)

1. Only *bonâ fide* horse-breeders will be allowed to compete for prizes. The Judging Committee will decide as to the eligibility of competitors.

2. A mare of 4 years of age in foal or with foal at foot, the result of having been covered before 4 years of ago, will not be eligible to compete.

3. No mares or stock will be allowed to compete as "served by Government stallions," or "got by Government stallions," unless a certificate to that effect is produced by the exhibitor. These certificates are obtainable from officers in charge of stallions.

4. Intending exhibitors should, on arrival at the show, apply to the Secretary of the Judging Committee for a ticket or tickets, as the case may be, stating the class in which they propose to compete.

5. Each ticket will be worn by the animal as a token of the right to compete.

6. When the tickets are given, the Secretary will name the date, hour and place at the Show, when and where the horses should be brought for examination. A shamiana (or large tent) or shed, to afford shade to the Committee, within a temporary railed enclosure, should be erected to allow of the members to carefully examine the stock. The public should not be permitted to enter the enclosure during the Committee's proceedings.

7. Prizes will be awarded on the day appointed by the President for the Judging Committee.

8. A certificate (parvána) will be given to each winner whether he takes his prizes in money, khillat, or medal, as he may think best.

9. Discretion is to be used by the Judging Committee in awarding only a portion of prizes to any class, if the stock of that class be not considered worthy of all prizes and the money not awarded may be devoted to the giving of extra prizes in other classes deemed by the Judging Committee as worthy of them, as it is the desire of Government to award the total sum granted, provided *any* of the classes of stock competing are in *any way* worthy of it.

10. The system of marks will be adopted as follows :—

Soundness	25
Power	25
Quality	25
Produce (if any)	25
Total ...	100
If no produce, the total will be	75

All other stock :—

Soundness	25
Power	25
Quality	25
Action	25
Total...	100

Marks for action have not been accorded to mares, as some competing may be too heavy in foal to allow of their action being shown. The Judging Committees are requested to be good enough to attach a return to their reports showing the number of the several marks alloted to winners of prizes.

NOTE.—On future occasions, prizes for geldings will be increased in number and value, and those for colts not castrated will be proportionately decreased. To enable a horse to become eligible to compete in the gelding class *both testicles must have been excised.*

2. The prizes alloted to the class geldings are to be invariably awarded to the best competing irrespective of their worth in other respects. Prizes in this class to be awarded only to stock that have been castrated when in possession of their present owners, *bonâ fide* horse-breeders, and provided the Judging Committee are satisfied the animals have been castrated with a view of competing for the prizes.

* These Rules are applicable to all District Horse Shows except to the "fancy classes" of the Poona Horse Show.

(To be substituted for the Rules for the Guidance of Judging Committees of District Horse Shows, published at page 534 of the Compilation of General Rules in force in the Revenue Department.)

RULES FOR THE GUIDANCE OF JUDGING COMMITTEES AT HORSE SHOWS AND PROSPECTUS OF PRIZES TO BE AWARDED AT SUCH SHOWS IN THE DISTRICTS OF THE PRESIDENCY PROPER, EXCEPT THE DISTRICTS OF AHMEDNAGAR AND POONA.

(Notn. No. 7161, *B. G. G.*, 1904, Pt. I, p.1254-55.)

Prospectus of prizes to be awarded at District Horse Shows.

Class I—Brood mares ... Mares 3 years old and upwards, served by Government or District Board stallions, within the last 12 months—(*vide* Rule II).

Class II—Fillies ... Fillies not in foal, under 3 years of age.

Class III—Remounts ... Stock of any age *purchased* at the Show for Government, Army and Police purposes. Prizes to be awarded to *sellers* of stock, being other than dealers—(*vide* Rule XIV) :—

(*a*)—For Army.
(*b*)—For Police.

Class IV—Foals ... Foals by Government or District Board stallions (*vide* Rule XVI) :—

(*a*)—Colts.
(*b*)—Fillies.

Class V—Yearlings ... Yearlings by Government or District Board stallions (*vide* Rule XVI) :—

(*a*)—Colts.
(*b*)—Fillies.

Class VI—Young Stock . Two years old stock by Government or District Board stallions (*vide* Rule XVI) :—

(*a*)—Colts.
(*b*)—Fillies.

Class VII—Geldings .. Geldings up to 5 years old (*vide* Rules IV and XIII).

Class VIII—Mules ... Mules up to 2 years old.

Mules from 2 to 5 years old.

Pony mares served by Government or District Board stallions within the last 12 months.

Class IX—Donkeys ... Donkey stallions under 4 years old.

Donkey mares fit for breeding purposes.

Rules for the guidance of Judging Committees of District Horse Shows.

I—Only *bonâ fide* horse breeders of the districts named will be allowed to compete for the above prizes. The Judging Committee will decide as to the eligibility of competitors.

II—Mares proved to be barren, *i.e.*, mares that have not held to Government or District Board stallions for the last two years, will not be eligible to compete.

III—No mares or stock will be allowed to compete as "served by Government or District Board stallions" or got "by Government or District Board stallions," unless a certificate to that effect is produced by the exhibitor. These certificates are obtainable from officers in charge of stallions.

IV—Geldings (Class VII), if by Government or District Board stallions, may also compete in "Class V—Yearlings (Colts)" and in "Class III—Remounts," if purchased at the Show for Government, Army or Police purposes.

V—Intending exhibitors should, on arrival at the Show, apply to the Secretary of the Judging Committee for a ticket or tickets, as the case may be, stating the class in which they propose to compete.

N.B.—A Silver Medal will be awarded to the best brood mare or filly at the Show (*vide* Rule XVII.)

VI—Each ticket will be worn by the animal as a token of the right to compete.

VII—When the tickets are given, the Secretary will name the date, hour and place at the Show, when and where horses should be brought for examination. A shamiana, or large tent, or shed, to afford shade to the Committee, within a temporary rail enclosure, should be erected to allow of the Members to carefully examine the stock. The public should not be permitted to enter the enclosure during the Committee's proceedings.

VIII—Prizes will be awarded on the day appointed by the President of the Judging Committee.

IX—A certificate (Parwána) will be given to each winner, who receives a money prize exceeding Rs. 10 (ten).

X—The Deputy Commissioner or Collector of the district will be *ex-officio* President of the Judging Committee and will arrange locally, to obtain the services of officers attending the Show, to serve on the Committee. The Superintendent, Civil Veterinary Department, will act as one of the Judges.

XI—Prizes in any class can be withheld if the animals are not of sufficient merit. It is not the desire of Government to withhold any part of the total sum granted for a Show, and Judging Committees should exercise their discretion when withholding money from one class to award it to another in which they consider the animals are of sufficient merit. Similarly, it is within their power to reduce the value of the bigger prizes and to add smaller ones in classes where the numbers competing are large.

XII—The system of judging the animals competing is left to the discretion of the Committee; but practical soundness in a horse shall, however, be the *sine quâ non* for taking a prize, and should not merely count equally with other points of merit. Should any brood mares or fillies be affected with any unsoundness which may be considered hereditary, they will be debarred from the receipt of any prizes.

XIII—To enable a horse to become eligible to compete in the "Gelding" class, both testicles must have been excised.

XIV—In case of Remounts not being purchased for one branch of the service of the class for which prizes are offered, the prizes for that class will be added to the prizes offered for Remounts of the other branch of the service. For instance:—If no Remounts are bought for the British Service, the prizes will be added to Native Cavalry Remounts, and *vice versâ*. None but Remounts purchased from *bonâ fide* breeders will be allowed to compete in these classes. The Judging Committee to decide whether the owners of the animals competing are *bonâ fide* breeders or not.

XV—It has been found that, in districts where private Studs are maintained by comparatively rich men, several prizes in the same class are, in many cases, awarded to the same owner; and the poorer breeders do not receive so many prizes as they otherwise would; it is, therefore, ruled that each private Stud competing be restricted to only one prize in each class.

XVI—The following rule is to be observed in ageing horse and mule stock competing for prizes:—

"Foal"	...	Under 12 months old.
"Yearling"	...	12 months to under 24 months old.
"Two years old"	...	24 months to under 36 months old, and so on.

XVII—The Silver Medal will be awarded to the *best brood mare or filly* at the Show. Discretion is to be used by the Judging Committee in awarding the Medal, after consulting the Deputy Commissioner or Collector of the district, and the Superintendent, Civil Veterinary Department, only to a *bonâ fide* breeder well known to the above-mentioned officers.

N.B.—The rules and prospectus are subject to modification to suit local conditions.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

PART XVIII.

THE INCUMBERED ESTATES ACTS.*

†*Rules under the Broach and Kaira Incumbered Estates Act XXI of 1881.*

In exercise of the power conferred by section 31 of Act XIV of 1877, the Governor in Council is pleased to frame the following rules, *viz*:—

1. All subordinate officers entrusted under the said Act with the collection, receipt, or custody of moneys, or of any valuable property, shall furnish security to the extent of three years' salary. (B. G. G., 1877. pp. 731 and 732.)

2. The order of management and the notices required to be issued under sections, 7, 12 and 26 of the Act shall be respectively in the Forms A, B and C, appended of these rules.

3. The Tálukdári Settlement Officer, or other Manager, appointed under the Act, shall make the enquiry prescribed by section 12, and prepare the Schedule of debts and liabilities and the liquidation scheme, required by section 17 in accordance with the following rules.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum, or the aggregate of these sums, with 9 per cent. per annum simple interest on the amount of each debt, from the time when each debt was incurred up to the date on which the order of management was published, shall be the amount to be awarded, but subject to the following conditions, (namely) :—

(1.)—That the amount of interest shall in no case exceed that of the principal ;

(2.)—That the heir in the second generation of the person who originally incurred the debt shall pay the principal only and no interest ;

(3.)—That the amount to be assigned in settlement of bonds held for services rendered by the creditor shall be determined by the Manager after hearing evidence as to the nature and extent of the service in question ;

(4.)—That no interest shall be allowed on debts, accounts relating to which are not porduced to the satisfaction of the Manager ;

(5.)—That when the amount of the original principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of the debt as it stood at the first stage at the which satisfactory proof of the existence of the debt is given ;

(6.)—That when no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed ;

*The rules under B. VI of 1862 are placed at the end of this Part.

† These rules were made under section 31 of XIV of 1877. But under section 2 of Act XXI of 1881, all rules made under XIV of 1877, are deemed to have been made and published under Act XXI of 1881. (Memo. of Acting L. R. quoted, G. R. 2274, 6th April 1882, R. D.)

(7.)—That interest shall not be allowed on account-debts in the absence of any writing showing that interest on such debts should be allowed;

(Notn. No. 4113, *B.G.G.*, 1878, p. 502.)

(7*a*.)—A claim supported by a deree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided clause 1 of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

(8.)—That all payments made by the Thákur to any creditor, and all profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the date of the order of management, shall be deducted from the principal sum of the said debt or liability, and interest on the amount so deducted shall be disallowed from the time of such payment or enjoyment, and the Manager shall determine the amount of profits realized under such enjoyment after examining such proofs as may be produced before him;

(9.)—That if the principal of all the debts due by any Thákur with simple interest at 9 per cent. shall exceed the amount which it is estimated will be available for the settlement of the creditors' claims, subject to the provisions of section 11 of the Act, during a period of twenty years, no interest shall be allowed on such debts as were not incurred by the present Thákur; and that if after disallowing interest on such debts the amount necessary to liquidate the whole of the debts be still in excess of the amount estimated to be available for their liquidation, the rate of interest to be awarded on the remaining debts shall be decreased until the aggregate amount of capital and interest payable falls within the requisite limit.

5. Whenever a bond or decree or other claim has been transferred by sale, gift or otherwise from the original holder to any other person, the present holder thereof must support his claim by the same proofs as if he were the original holder.

(Notn. No. 4113, *B. G. G.*, 1878, p. 502.)

6.—All admitted debts shall be satisfied proportionately in the following order:—

1st.—Money lent on the security of the estate.

2rd.—Decreed and bonded debts.

3nd.—Account debts.

7. In deciding what claims are admissible, and to what amount they shall be admitted, the manager may appoint a Committee of experienced natives—consisting of three persons of whom one only shall be in the service of Government—to assist him, and may re-imburse the said Committee their necessary expenses out of percentage of the rents and profits which he may receive to be reserved by him to cover

these and similar charges connected with the discharge of his duties.

8. If the creditors of any debtor themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties assent to the said schedule in presence of the Manager, the Manager may accept such schedule without further investigation, and make it the basis of the liquidation scheme.

9. If the creditors agree to accept a sum of money from the Manager in immediate satisfaction of all their claims against the debtor, and the Manager shall determine to borrow money from Government for the purpose of making such payment, the Manager shall, on receipt of the orders of Government sanctioning such loan, order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally pass receipts in full for all their claims, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under the Act. The interest chargeable on such loan shall be at the rate of 5 per cent. per annum, or at such rate as may be specially fixed by the Manager with the sanction of Government and shall be repayable together with the amount of the loan as provided in section 11 of the Act. (Notn. No. 2274, *B. G.* 1882, p. 289

10. In estimating the amount of cash to be paid under the last rule in immediate satisfaction of admitted claims, the following points are to be considered (namely):— (Notn. No. 2485, *B. G. G.*, 1879, pp. 528-529.)

(*a*) The income of the debtor, the amount of the debt, and the probability or improbability that the creditor would have been able to recover his debt if the Act had not been passed,

(*b*) The nature of the particular debt,

(*c*) The period for which the debt had been outstanding,

(*d*) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest respectively at the present time.

11. If at any time the condition of a Thákur's estate shall be found sufficiently prosperous, the Commissioner may make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to him to warrant.

12. The fact of his having sanctioned a liquidation scheme shall be notified by the Commissioner under section 20 of the Act by a written notice in English and Gujaráti, which shall be published in the *Bombay Government Gazette*, and of which one copy shall be affixed in the Court of the Subordinate Judge within whose jurisdiction the debtor resides or the bulk of his estate is situated and one copy in the Court of the District Judge to whom such Judge is subordinate. (Notn. No. 924, *B. G. G.* 1879, p. 124.)

APPENDIX A.

Order of Management to be issued under section 7.

WHEREAS (here enter the name and description of the applicant in full, and when he is not himself the Thákur, state whether he is the sole heir, or one of the heirs of the Thákur) has made an application to me under section 4 of the Broach and Kaira Incumbered Estates Act, 1881, requesting that the provisions of the said Act be applied to his case (or to the case of);

And whereas upon enquiry it appears to me expedient that the provisions of the said Act should be so applied;

I do hereby direct that the immoveable property of the said shall be managed and his debts liquidated in the manner provided in the said Act by the Tálukdári Settlement Officer (or by);

Dated this
day of 18

(Signed)

Commissioner, N. D.

APPENDIX B.

Notice under section 12.

No.

Station and date.

WITH reference to the order of the Commissioner, N. D., published at page of the *Bombay Government Gazette* of the of 18 , directing that the immoveable property of be managed and his debts liquidated by me under the provisions of Act XXI of 1881, I hereby give notice and require under section 12 of the said Act, that all persons having claims against the said , or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

The attention of intending claimants is called to the requirements of section 13 of the said Act.

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,
(or Manager.)

APPENDIX C.

Notice under section 26.

No.

Station and date.

(Notn. No. 4113, *B. G. G.*, 1878, p. 502.)

WHEREAS the management of the immoveable property of was, by order of the Commissioner, N. D., published at page of the *Bombay Government Gazette*, dated the day of 18 , vested in me as the Manager appointed under Act XXI of 1881, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act have been liquidated as therein provided (or in accordance with the orders of the said Commissioner), notice is hereby given under section 26 of the said Act, that my management of the said estate will terminate on the

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,
(or Manager.)

or else the following (as the case may be):—

No.

Station and date.

Whereas the management of the immoveable property of was, by Government notification published at page of the *Bombay Government Gazette*, dated , vested in the Tálukdári Settlement Officer as the Manager appointed under Act XV of 1871, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act, have been liquidated as therein provided; notice is hereby given, under section 26 of Act XXI of 1881, that the management of the said estate by the undersigned will terminate on the

Tálukdári Settlement Officer.

[*To be substituted for the Rules under the Sind Encumbered Estates Act (XX) of 1881, published at pages 539 to 542 of the Compilation of General Rules in force in the Revenue Department.*]

RULES UNDER THE SIND ENCUMBERED ESTATES ACT, XX OF 1896.*

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys or valuable properties shall furnish security to the extent of three years' salary. [S. O. G., 1897, pages 448—449].

2. The notices required to be issued under Sections 12 and 27 shall be in the forms A. and B., appended to these Rules.

3. Every Manager appointed under Section 7 (2) (*c*) of this Act shall make the enquiry prescribed by Section 15, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by Section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in Section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions:

I. The amount of interest shall in no case exceed that of the principal.

II. The heir in the second generation of the person who originally incurred the debt to pay the principal only, and no interest.

III. The amount assigned in settlement of bonds held for service rendered by the creditor to be determined by the Manager, after hearing evidence of the service in question.

IV. No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V. When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI. When no accounts are produced, the claim shall be disallowed, unless the Manager is satisfied that the debtor has received a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

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* These Rules, made under Section 33 of Act XX of 1896, have been substituted for the Rules which were originally made under section 30 of Act XIV of 1876, and were kept alive by Section 2 of Act XX of 1881. For such Rules publication in the Sind Official Gazette alone is required. Cf. Section 33 (2) of Act XX of 1896.

VII. Interest not to be allowed an account of debts in the absence of any specification that it shall be allowed.

VIII. A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided Rule 4, Clause I, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by the Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment, after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order:—

1*st*—Money lent on the security of the estate.

2*nd*—Decreed and bonded debts.

3*rd*—Account debts.

8. If the principal of all the debts, with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in Section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the requisite limits. For the purposes of calculation under this Rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse

the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that, if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered:

(*a*) The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(*b*) The nature of his particular debt.

(*c*) The period for which the debt had been outstanding.

(*d*) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

12. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

APPENDIX A.

Notice under Section 12 *of XX of* 1896.

No.

Station and date

Whereas the management of the undermentioned estate belonging to (*name and father's name*) has, by order of the Commissioner in Sind, dated , been vested in me as the Manager appointed under Act XX of 1896:

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said , or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this Notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time, or to cause to be produced, every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation and boundaries.

Manager.

APPENDIX B.

Notice under Section 27 *of Act XX of* 1896.

No.

Station and date

Whereas the management of the undermentioned estate belonging to was, by order of the Commissioner in Sind, dated , vested in me as the Manager appointed under Act XX of 1896, and whereas all the debts and liabilities of the said estate have been paid and discharged:

Notice is hereby given under Section 27 of the said Act that my management of the said estate will terminate on the (*date of termination*).

Description of property, situation and boundaries.

Manager.

*Rules under the Sind Incumbered Estates Act XX of 1881.

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys or valuable properties shall furnish security to the extent of three years' salary. (S. O. G., 18 p. 360-361.

2. The notices required to be issued under sections 12 and 26 shall be in the Forms A and B appended to these Rules.

3. Every Manager appointed under section 6 of this Act should make the enquiry prescribed by section 12, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions :—

I.—The amount of interest shall in no case exceed that of the principal.

II.—The heir in the second generation of the person who originally incurred the debt, to pay the principal only and no interest.

III.—The amount assigned in settlement of bonds held for services rendered by the creditor to be determined by the Manager after hearing evidence of the service in question.

IV.—No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V.—When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI.—When no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII.—Interest not to be allowed on account of debts in the absence of any specification that it shall be allowed.

VIII.—A claim supported by a decree of a civil court shall be subject to the same enquiry as any (S. O. G., 1878, July to Dec., p. 89.)

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* These Rules were made under section 30 of XIV of 1876, but are kept alive by section 2 of XX of 1881, for such rules publication in the S. O. G. alone is required.

other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided rule 4, clause 1, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order :—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts.

8. If the principal of all the debts with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the requisite limit. For the purposes of calculation under this rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally signed by the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. If the creditors shall agree to accept a sum of money from the Manager in immediate satisfaction of all their claims on any estate, and the Manager shall determine to borrow money from Government for the purpose of meeting such payment, it shall be competent for the Manager, on receipt of the orders of the Commissioner in Sind sanctioning such loan, to order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor, in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under this Act. And all sums advanced by Government under this rule, shall be recovered from the estate in the same manner as other debts due, or liabilities incurred, to the Crown or Government may be recovered under this Act.

12. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered :—

(*a*).—The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(*b*).—The nature of this particular debt.

(*c*).—The period for which the debt had been outstanding.

(*d*).—The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

13. Advances made with the object of facilitating the settlement of the claims against any Jágirdár or Zamindár's estate brought under the provisions of the said Act shall, when the Commissioner in Sind shall so direct, be chargeable with interest at the rate of (5) five per cent.

14. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

Opinion of the Advocate General.—When an estate is held jointly by a person who is a Zamindár under the Sind Incumbered Estates' Act (XX of 1881) and by one who is not a Zamindár under the definition in the Act, the estate cannot legally be placed under management. Section 8 of the Act enacts that the order of management "shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, &c." Now when property is held by the persons jointly neither of them can be said to be possessed or entitled to any portion of that property in his own right, for they are each of them interested in every portion of it. Moreover the provisions of Chapters III, IV and V of the Act are absolutely inconsistent with any person other than the Zamindár being interested in the property put under management. The Zamindár is entitled to have the estate partitioned and after partition he would be entitled to the benefit of the Act in respect of the portion allotted to him (Accompaniment to G. R. 6869, 15th September 1883, R. D.).

Expended advances before sanction of liquidation scheme.

Memo. of L. R.—Expended advances made before a liquidation scheme is sanctioned are part of the "costs of the management" and by clause (1), Section 11 of Act XX of 1881, they are made a first charge upon the sums received or recovered by the manager under Section 10, whether before or after a liquidation scheme is sanctioned. They may, therefore, be recovered before an order is made under Section 19 of the Act for relinquishing the estate, by the exercise of any of the powers with which the manager is invested by Section 10 previous to the sanction of a liquidation scheme. One of these powers is the grant of a lease for any term not exceeding two years of the whole or any part of the property under management. (G. R. No. 4166, 23rd May 1884, R. D.)

APPENDIX A.

NOTICE UNDER SECTION 12 OF ACT XX OF 1881.

No.

Station and date.

Whereas the management of the undermentioned estate, belonging to (name and father's name) has, by order of the Commissioner in Sind, dated ————————, been vested in me as the Manager appointed under Act XX of 1881,

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said ————————, or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time or to cause to be produced every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation and boundaries.

Manager.

APPENDIX B.

NOTICE UNDER SECTION 26 OF ACT XX OF 1881.

No.

Station and date.

Whereas the management of the undermentioned estate, belonging to———— ———— was, by order of the Commissioner in Sind, dated————————, vested in me as the Manager appointed under Act XX of 1881, and whereas all the debts and liabilities of the said estate have been paid and discharged, notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the (date of termination.)

Description of property, situation, and boundaries.

Manager.

* RULES UNDER SECTION 6 OF BOMBAY ACT VI OF 1862.

The officer or officers who are to be appointed under section 1 of the Act shall prepare the scheme mentioned in section 10 of the Act in the following manner :—

1. The officer or officers shall ascertain the principal sum originally lent by each of the creditors severally, and this sum, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the declaration provided for in section 1 of the Act shall be made, and no further, shall in each case be the amount awarded, but subject to the following conditions :—

I. The amount of interest shall in no case exceed that of the principal.

II. The heir in the second generation of the person who originally incurred the debt to pay the principal only, and no interest.

III. The amount assigned in settlement of bonds held for services rendered by the creditor, to be determined by the Settling Officer after hearing evidence of the service in question.

IV. No interest to be allowed on debts where accounts to the satisfaction of the Settling Officer are not produced.

V. When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI. When no accounts are produced the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII. Interest not to be allowed on account debts in the absence of any specification that it shall be allowed.

VIII. A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim ; but in cases where it shall appear to the Settling Officer that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Settling Officer, if no such decree had been passed, the amount so awarded may be allowed, provided clause I of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed. (G. R. No. 4113, 14th August 1878, R. D.)

2. All payments made by the Tálukdár to any creditor, or profits which have been enjoyed by such creditor, towards the liquidation of any debt or liability, before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from the time of such payment or enjoyment ; and the Settling Officer shall be competent to decide on the amount of profits realized under such enjoyment, after examining such proofs as are presented to him.

3. Whenever a bond, a decree, or other claim has been transferred by sale, gift, or otherwise, from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

4. When profits or income arising from a Tálukdár's estate have been divided into shares, and it has been customary to consider each share separately liable for the debts of the proprietor of that share, a separate settlement shall be made of the debts of each sharer, instead of for the whole estate.

5. All admitted debts shall be satisfied proportionately in the following order :—

1*st*.—Money lent on the security of the estate.

2*nd*.—Decreed and bonded debts.

3*rd*.—Account debts. (G. R. No. 4113, 14th August 1878, R. D.)

6. If the principal of all the debts, with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditor's claims, as provided for in Section VII of the Act, during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Tálukdár. If the amount be then still in excess of the aforesaid amount,

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* * *N.B.* "Rules under section 6 of Bombay VI. of 1862, need not be published in the G. G." (G. R. No. 4113, 14th August 1878, R. D.)

Section 34 of Bombay VI of 1888 provides that no new declaration shall be made under section 1 of Bombay Act VI of 1862 at any time after six months from the date on which Bombay VI of 1888 came into force. These erules therefore will probably soon become obsolete.

the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the required limit.

7. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Settling Officer to appoint a Committee of experienced Natives, consisting of three persons, of whom one only shall be in the service of Government, to assist him, and it shall further be competent to the Settling Officer to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Settling Officer may receive to cover all charges arising directly from the special nature of his duties.

8. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties shall consent to the said schedule in presence of the Settling Officer, it shall be competent to the said officer to accept such schedule without further investigation, and to make it the basis of his settlement.

9. During the period the estate may be under management, the Tálukdár shall not, unless for special reasons to be reported to Government, be displaced from the internal management of his estate, but he shall in regard to every thing relating to the said management, be subject to the supervision of the Settling Officer, who shall be fully authorized to take any steps which he may think advisable to ascertain and secure the full value of the yearly revenues of the estate or estates.

10. In the case of villages or lands held by superior Chiefs in virtue of mortgages or loan transactions, it shall be competent to the Settling Officer, with a view to avoiding undesirable agitation, to effect any compromise with regard to the possession of the village or the land which may meet the consent of both parties.

11. Where Wanta lands which may be admitted by Government to be held as transferable property which the holder may charge or alienate, shall be found to have been at the passing of this Act in the *bonâ fide* possession and enjoyment of any mortgagee in satisfaction of any claims secured upon such lands, such unsatisfied claims shall be satisfied in full from the rents and profits of such lands on which they are secured, next after any claims of Government on the said lands, and to such amount as shall be proved and established under the foregoing rules.

12. If the creditors shall agree to receive a sum of money from the Government Treasury in immediate satisfaction of all their claims on any estate, it shall be competent for the officer appointed under section 1 of the Act, with the sanction of Government, to order such payment, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the said Officer for satisfaction under this Act. And all sums advanced by Government under this rule shall be recovered from the estate, in the same manner as other debts due or liabilities incurred to the Crown or Government may be recovered under this Act.

13. The notification of any claim under section 8 of the said Act shall be understood to denote the statement of such claim before the Settlement Officer, accompanied by all such proofs and original documents required under the preceding rules, as it is the intention of the claimant to produce in support of the same. (Extra rule sanctioned, May 6th, 1863).

14. Advances made with the object of facilitating the settlement of the claims against any tálukdári estate brought under the provisions of the said Act shall, when the Governor in Council shall so direct, be chargeable with interest at 5 per cent. per annum. (Extra rule, Government Resolution No. 2080, June 2nd, 1864).

15. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Governor in Council to make such further award beyond what is permitted by the previous rules as the circumstances shall seem to warrant. (Extra Rule, Government Resolution No. 299, January 25th, 1865).

II.—RULES UNDER THE DECCAN AGRICULTURISTS* RELIEF ACT, XVII of 1879.

The following Rules regulating registration by Village Registrars under the provisions of the Deccan Agriculturists' Relief Act, 1879, are published for general information:—

The following Rules are made by the Inspector-General of Registration with the previous sanction of the Governor of Bombay in Council under the provisions of section 61 of the Deccan Agriculturists' Relief Act, 1879, for regulating the proceedings and providing for the custody of the records of Village Registrars, in supersession of all previous Rules on the same subject:—

(Amended by Acts XXIII of 1881, XXII of 1882 & XXIII of 1886.)

(A)—Under Section 61.

Definitions.

I.—In these Rules: (Notn. No. 6710, *B.G.G.*, 1882, p. 867.

(*a*) "Registrar" means the Registrar of a District appointed under the Indian Registration Act, 1877;

(*b*) "Táluka Village Registrar" means a Village Registrar having concurrent jurisdiction over the whole táluka of which he is Táluka Village Registrar and who is also a Sub-Registrar under the Indian Registration Act, 1877;

(*c*) "Special Village Registrar" means a Village Registrar of a circle consisting of one or more villages.

N.B.—Táluka Village Registrars may be also Special Village Registrars of Circles.

II.—Records.

(*a*) † *Register Book.*

Form of Register Book.

2. The Registers prescribed by section 58 of the Deccan Agriculturists Relief Act, 1879, shall be a book kept in the form of Appendix A.

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* For meaning of the word "agriculturists" *vide* I. L. R., 4 B., 360, and I. L. R, 10 B., 367, and section 52 as amended by XXII of 1882.

Memo. by the L. R.—I am of opinion that a Village Registrar should regard as an agriculturist any person who claims to be such and should not make any inquiry into the correctness of his description of himself. The only matter the Village Registrar is required to satisfy himself about is the identity of the intending executants (section 57 of the Deccan Agriculturists' Relief Act). If a person who is not really an agriculturist passes himself off as such before a Village Registrar, the consequences, if his deception is afterwards brought to light, will be upon his own head (G. R. No. 1820 of 15th March 1883, J. D.)

† *Registration of instruments to which Government is a party.*

Memo. by L. R.—An instrument to which Government or an officer of Government in his official capacity is a party should not be executed by a Village Registrar, but as regards Registration should follow the general law contained in the Indian Registration Act, 1877 (G. R. 3075, 7th May 1883, J. D.)

Documents to be registered by Village Registrars.

Memo. by L. R.—The practice of Village Registrars in construing section 56 as applying generally to all deeds of whatsoever description executed by agriculturists of the four districts is clearly wrong. Chapter VIII of the Deccan Agriculturists Relief Act does not, and was never intended to, apply to 'all deeds of whatsoever description, executed by agriculturists" but only to such instruments as are covered by the terms of section 56. An ordinary deed of adoption, *i. e.*, a deed which records the fact of adoption and nothing more, is not, in my opinion, an instrument of the nature described in that section (G. R. No. 3144, 5th May 1885, J. D.)

Examination of new Register Books.

3. A Village Registrar before bringing a new Register Book into use shall count the pages, and satisfy himself that the number thereof corresponds with that given in the certificate on the title page. If the number be found correct, he shall certify to that effect on the title page. If there be a discrepancy, he shall return the book for correction to the officer from whom it was received.

Numbering of the consecutive volumes of Register Books.

4. The volumes of Register Books in each office shall be numbered in a consecutive series, which shall not terminate with the year but be carried on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year. When the amount of copying is great, two volumes of a Register Book may be employed simultaneously, instruments bearing an even serial number being copied into one and those bearing an odd serial number into the other.

(b) Index of Register.

(Notn. No. 3807, *B.G.G.*, 1885, Pt. I., p. 738.)

5. An Index of all entries in the Registers shall be prepared in the form of Appendix B. The Index shall be prepared alphabetically in each Táluka Village Registry Office and Village Registry Office, and shall in the latter case be forwarded on or before the 5th of each calendar month by the Village Registrar to his Táluka Village Registrar.

6. It shall be the duty of the Táluka Village Registrar to arrange the Index of each of the Village Registry Offices of his táluka circle, including that of his own immediate circle, in due order for binding, taking especial care that no Index sheets of one Village Registry Office are mixed up with those of another, and seeing that all the sheets bearing one and the same letter are, for each Village Registry Office, brought together for the year according to the order of their preparation before being bound. A blank page should be inserted in each Index file, before being bound at each place where the Index for one Village Registry Office terminates and that of another commences. At the end of the year the Index for the táluka shall be bound into volumes.

Certain rules under Act III, 1877, to be observed in preparing the Index.

7. The rules for the time being applicable to the Indexes of the Registers kept under the Indian Registration Act, 1877, shall be followed in the preparation of the Index under these rules so far as regards:

(a) the method of indexing and transliterating names of villages;

(b) the use of the loose sheets supplied for the preparation of the Index.

(c) Claim-Note and Day Books.

(Notn. No. 7538, *B.G.G.*, 1886, Pt. I., p. 1077.)

8. A claim Note Book in the form of Appendix C and a Day-Book in that of Appendix D shall be kept by each Village Registrar.

If the registration of an instrument is completed on the day for the attestation of the instrument and before the claiming party under such instrument leaves the office, no claim-note from this book need be granted to such party.

It shall be the duty of the Village Registrar, if possible, to complete the registration of an instrument on the same day on which such instrument is prepared and attested by him.

If, however, when a party claiming under an instrument leaves the office, the registration of such instrument is not complete, the Village Registrar shall grant to such party a claim-note, with the amount of fee endorsed thereon, which shall afterwards be taken back and filed when the instrument to which it relates is delivered to the party who claims it or to such other person, if any, as he has nominated in writing in that behalf in the claim-note, and the signature of such party shall be taken in the Day-Book acknowledging receipt of such instrument.

(d) Cash Book.

Cash Book.

9. Every Táluka Village Registrar and Village Registrar shall keep a Cash Book in the form given in Appendix E, and in this book shall be entered all fees paid for registration, &c.

(e) General Provisions.

Local offices of issue for books and forms.

10. The office of every Táluka Village Registrar shall be the local office of issue for books, forms, &c., to the other Village Registrars of the táluka in which such office is situate.

Transfer of records to office of Táluka Village Registrar.

The office of each Táluka Village Registrar shall be a central office of record for the Village Registry Offices of the táluka, and the Register Books of the latter Village Registry Offices shall be forwarded to the said Táluka Village Registrar for the purpose of being recorded as they from time to time become complete.

Subject to the sanction of the Inspector General of Registration, a Cash or Day-Book may be destroyed after a lapse of six years from the date of the final entry appearing therein. (Notn. No. 6438, *B.G.G.*, 1890, Pt. I., p. 941, 11th Sept. 1890.)

Village Registrars where to hold their offices, &c.

11. All Village Registrars except Táluka Village Registrars shall hold their office in the chávdi of the Village, which is the head-quarters of his circle, office hours being from 11 A.M. to 5 P.M. On closing the office, the registration books, &c., shall be secured in a box or otherwise and given in charge of the Village Police for safe custody.

Táluka Village Registrars and Village Registrars to provide their own writing materials and to be responsible for quality of writing and condition of the records.

All Táluka Village Registrars and Village Registrars shall provide out of the amount received by them as remuneration whatever writing materials they may require for the work of their respective offices, excepting such blank forms and books as are supplied by Government. They shall be responsible that all instruments drawn up by

them or under their superintendence are written intelligibly, legibly and distinctly, and that their records are kept neatly and in order.

Destruction of old papers.

12. No Village Registrar shall destroy any of the old papers of his office without having first obtained the sanction of the Registrar through the Táluka Village Registrar.

III.—PROCEDURE.

(*f*) *Execution and Registration of Instruments under Sections 57 and 58.*

(Notn. No. 7538, *B.G.G.*, 1886, Pt. I., p. 1078.)

Preliminary measures to be taken before an instrument is written.

13. Village Registrars shall duly satisfy themselves of the identify of each executant, and shall receive the fee for registration before the instrument is written. They shall also pay careful attention to the requirements of the Stamp Act and the rules issued under it.

Preparation of instruments.

14. Every Village Registrar shall be provided under the orders of the Registrar with specimen forms of all instruments to which agriculturists are ordinarily parties. In drafting an instrument care must be taken to follow the best obtainable form, and while fully expressing the intentions of the parties, to avoid repetition or prolixity.

Above all, the language employed should be simple and clear, and the description of immoveable property, if any has to be mentioned in the instrument, should be such as to enable the property to be unmistakeably identified. When the instrument relates to land to which a survey has been extended, the survey numbers shall be set forth.

The Village Registrar shall ordinarily draw up the instrument himself, and shall only employ any person to do so under his superintendence when he is prevented by an exceptional press of work, or other unavoidable cause, from drawing up the instrument himself.

When the instrument is not drawn up by the Village Registrar himself but under his superintendence, the person drawing up the instrument shall be chosen by the Village Registrar, and is in no case to be remunerated by the parties themselves but by the Village Registrar from his percentage fees.

Endorsements to be made on the instruments after its execution.

15. When the instrument has been written, it shall be read out to all the parties by the Village Registrar and executed as provided in section 57 as amended by Act XXIII of 1881.

(Notn. No. 7538, *B.G.G.*, 1886, Pt. I., p. 1077.)

The Village Registrar shall then endorse upon the instrument a note in the following form :—

"Fee received for—

	Rs.	a.	p.
Preparation and registration	0	0	0
Total ...Rs.			

Immediately below this note shall appear the endorsement of attestation required by para. 2 of section 57 in the following form :—

"This instrument written by me [*under my superintendence*], after having been read aloud within his hearing, has been executed by *A. B.* of *C. D.*, whom I know [*of whose identity I have duly satisfied myself*] in my presence this day."

If a witness is examined as to identity, his signature and place of residence shall be taken as under :—

"I *E. F.* of *G. H.* identify *A. B.*"

(*Signature or mark of E. F.*)

The endorsement shall be signed and dated by the Village Registrar ; and if any of the parties to the instrument is unable to read it, the attestation by two respectable witnesses shall immediately follow that of the Village Registrar in the following form :—

"We *I. J.* of *K. L.* and *M. N.* of *O. P.* have witnessed the execution this day of this instrument by *A. B.* of *C. D.*"

(*Signature or mark of*
I. J. of *K. L.*)

(*Signature or mark of*
M. N. of O. P.)

The Village Registrar shall next endorse upon the instrument the note required by para. 2 of section 59 as to whether or not the transfer of the consideration named therein or of any part thereof took place in his presence. This note shall be in one or other of the following forms, as the case may be :—

"*A. B.* of *C. D.* has in my presence this day received from *Q. R.* of *S. T.* the sum of Rs. (*to be entered both in figures and words*) [*the following articles, viz.* ———], being the whole [*a part*] of the consideration stated in this instrument ;"

or

"No portion of the consideration stated in this instrument has been paid in my presence to *A. B.* of *C. D.*"

The endorsement shall be signed by the Village Registrar.

Immediately below such declaration shall be endorsed a further note showing number of instrument and page and volume of the Register Book in which it is registered.

Finally, at the foot of all these endorsements shall be affixed the Village Registrar's signature with his official designation "*Village Registrar of*——." and the date of such signature.

*15B. It shall be the duty of the Village Registrar to enquire whether the instrument about to be executed will modify or wholly or partly supersede any previous instrument; and if the parties answer in the negative, the following declaration shall be endorsed on the instrument and signed by the claiming party or parties or by his or their authorized agent:—

(*vide* Notn. No. 8423, *B. G. G.*, 1884, p. 1147.)

"I (or we) hereby declare that this instrument does not modify or wholly or partly supersede any previous transaction or instrument."

Marking of previous instruments for identification.

16. Except as hereinafter provided no instrument which is intended to supersede or modify a previous instrument shall be prepared as laid down in Rules 14 and 15 unless such previous instrument has been produced in accordance with para. 3 of section 59 before a Village Registrar, who shall, on its production, write upon it the following note:—

"This iustrument has been modified [*wholly or partly superseded*] by instrument No.——of 189 .

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* Memo. of Acting L. R.:— An intending executant was accompanied to the Sub-Registrar's office by one Rámkrishna, the *brother* of Sávliárám, the person in whose favour the document was to be executed.

"2. Rámkrishna gave his name as Sávliárám and assured the Sub-Registrar that the intended document would not affect any previously executed document.

"3. It appears that Rámkrishna had no dishonest motive. But as section 57 as amended by section 13 of Act XXIII of 1881 requires any relation of an obligee so appearing to produce a power-of-attorney, Rámkrishna seems to have personated his brother merely to save trouble and expense.

"Rule 15 *B*, under which a statement of the nature made by Rámkrishna is required, is made under section 61 of Act XVII of 1879.

"4. No penalty could attach to a false answer to any inquiry under that rule—

(*a*) because section 61 of Act XVII of 1879 empowers the Inspector General to make rules only to regulate the proceedings of his subordinates and not to impose duties on the public;

(*b*) Rule 15 *B* prescribes only the duties of the Village Registrar, and no provision of law imposes a corresponding duty on the person interrogated.

(*c*) Section 63 A (section 11—XXIII of 1886) merely imposes additional duties on the Registrar under sections 57 and 59 of the Deccan Agriculturists' Relief Act, and does not make those inquiries a part of the Registration Act III of 1877, which is only to be followed *after* the procedure prescribed by the Deccan Agriculturists' Relief Act has been followed.

"5. For these reasons I do not think any offence has been committed under the Registration Act.

"6. The Inspector General says this case is one of little moment and apparently there was no *malâ fides*.

"7. I do not think that in this case a conviction could be had under section 182, Indian Penal Code, as the intention of the accused was to save himself and his brother trouble and not to cause the Registrar to do what he ought not to do.

"8. Should any case of real *malâ fides* occur in future, I think that section 182 and section 471 of the Indian Penal Code would be the appropriate sections under which a conviction might be obtained." (G. R. No. 6676, dated 6th October 1888, R. D.)

executed in my presence by *A. B.* of *C. D.* in favour of *Q. R.* of *S. T.*, and attested by me this day."

On the new instrument which modifies or supersedes the previous instrument the Village Registrar shall write, at the top of the document, immediately over the stamp impression, if there be any, the following note :—

"The instrument dated———executed by *A. B.* in favour of *Q. R.*, which this instrument modifies [*supersedes*] has been produced before me this day, and a note of such modification [*supersession*] has been endorsed by me thereon."

Provided that the writing of this note shall not dispense with the necessity of a full description of the old instrument being contained in the new one as required by section 59.

Proviso.

If in any case it be established to the satisfaction of a Village Registrar that a previous instrument of the nature of that named in this rule has been lost or destroyed, or for other sufficient reason cannot be produced, he shall record, on the new instrument in lieu of the last-mentioned note, a note to the following effect :—

"It has been established to my satisfaction that the instrument dated———executed by *A. B.* in favour of *Q. R.*, which this instrument modifies [*supersedes*] has been (*here state why the instrument cannot be produced*), and cannot therefore be produced before me."

To each of the above notes the Village Registrar shall attach his signature and official designation, together with the date of signature.

Preparation and registration of instrument at private residence.

17. In ordinary cases all instruments shall be drawn up and registered at the office of the Village Registrar authorised to prepare the same. But on special cause being shown, such officer may attend at the residence of any person desiring to have any instrument prepared and shall charge an additional fee as laid down in the Fee Table prescribed under section 63.

(*g*) *Provisions applicable to registration by Village Registrars under section 58.*

Corrections in the original instrument to be attested.

18. If in writing an instrument it has been found necessary to make any corrections in the nature of erasures, interlineations, &c., the same shall be initialled by the Village Registrar and clearly noted at the end of the instrument immediately above the signatures of the executants.

Provision when space afforded by single piece of paper is insufficient to contain all the writing of an instrument.

19. If in any case the space afforded by a single piece of paper is found insufficient to contain all the writing of an instrument and it is necessary to attach an extra piece or pieces thereto, the Village Registrar shall write his signature across the junction of the two or more pieces of paper of which

the instrument consists both on the front and on the reverse side and make a note in the Register Book at the foot of the entry of how many pieces of paper in addition to the stamp paper the instrument consists.

(Notn. No. 958, *B. G. G.*, 1885, p. 177.)

Memorandum of instrument registered by Táluka Village Registrar to be sent to Village Registrar of circle in which property is situated or in which executant resides.

20. A Táluka Village Registrar who registers any instrument in the exercise of concurrent jurisdiction or the Village Registrar when registering document relating to immoveable property situate either wholly or partly in some circle other than his own shall, on such registration being completed, forward to the Village Registrar within whose circle the property affected by the instrument is situated, or in case of instrument relating to moveable property, to the Village Registrar of the circle in which the executant or executants of such instrument resides or reside, or if the property be situated or executants reside in different circles, to the Village Registrars of each such circle a memorandum of instrument so registered in the Form of Appendix F. These memoranda shall be filed in the Village Registrar's office to which they may be sent for two calendar years, subsequent to which period they may, with the sanction of the Registrar through the Táluka Village Registrar, be destroyed.

Mode of copying instruments into the Register.

21. In copying an instrument into the Register Book the endorsements prescribed by Rules 15 and 16 shall be copied in column 2 and the contents of the instrument itself shall be copied in column 3. When the instrument is stamped, the value of the stamp and stamp vendor's endorsement appearing on the original instrument shall be copied in column 3 of the Register Book above the entry.

(Notn. No. 4296, *B. G. G.*, 1885, Pt. I, p. 803.)

Method of noting errors, erasures, &c., in original instruments in the copies thereof in the Register.

22. Errors, erasures, or alterations appearing in original instruments or in the endorsements thereon shall be copied into the Register exactly as they appear in those instruments or endorsements, marginal notes being written explanatory of such errors, *e. g.*, "so in the original" or corresponding words in the Vernacular with a * over the error and a corresponding mark over the marginal entry relating thereto.

Attestation of copy of instrument in Register Book and method of attesting corrections in that copy.

23. On the copy in the Register Book being completed, the Village Registrar having carefully compared it with the original shall certify under his signature, with his official designation attached, that it is a true copy. Any mistakes made at the time of copying shall be corrected by the words written by mistake being underlined and the correct words being written above, or by the words omitted being neatly interlineated; but the Village Registrar shall attest all such corrections in the Register Book

by attaching his initials thereto and certify at the foot of the entry that these mistakes were made at the time of copying. (Notn. No. 7538, *B. G. G.*, 1886, Pt. I., p. 1077.)

Entries in Register Book how to be numbered and marked.

24. All entries in a Register Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. The serial number shall appear in column 11, being distinguished in the case of instruments relating to immoveable property by the letter A and in that of instruments relating to moveable property by the letter B.

Termination of one entry and commencement of next to be shown in the Register Book.

An ink line shall be drawn from left to right across the page of the Register Book to show where one entry terminates and where the next begins, such line being drawn immediately below that portion of the copy, whether in column 2 or column 3, which appears lowest down on the page. The entry relating to one instrument in one column shall in on case be made alongside of the entry relating to any other instrument in the other column.

(*h*) *Copies and Searches.*

25. All errors, interlineations, &c., appearing in the registered entry shall be shown in any copy granted under the fourth paragraph of section 58 in the same manner as they appear in the Register as required by Rule 22, and mistakes made in preparing the copy shall be corrected in the manner prescribed in Rule 23 for correcting mistakes when copying instruments in the Register. In certifying any copy of a registered entry a Village Registrar shall attach his full official designation thereto as well as his signature. (Notn. No. 7538, *B. G. G.*, 1886, Pt. I., p. 1078.)

* On furnishing a copy† as aforesaid, the Village Registrar will fill in the first two columns of the Day-Book with a reference to the entry for a copy of which the application is made; he shall further enter in the fourth column the date on which the copy is granted and in the fifth column shall obtain the signature of the party or of the agent or representative to whom the copy is delivered."

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*Memo. by Legal Remembrancer as to copies of wills:—A "will" in the sense in which that word is understood by Europeans, is an instrument to which there is only one party, the testator himself. The testator is the party entitled to the custody of the original instrument, and under para. 2 of section 58 of the Dekkhan Agriculturists' Act, the will ought to be delivered to him by the Village Registrar before whom it is executed. And as there is no "other party" to such an instrument, the directions of the section as to supplying a copy of the instrument to the other party, must in such a case be held inoperative. But what is called a will amongst natives, is frequently given by them into the possession of the person intended to be benefited by it. If this be the executant's intention in any case that comes before a Village Registrar, there is, I think, no reason why the directions of section 58 of the Act should not be fully carried out. (G. R. 2839, dated 22nd April 1885, J. D.)

† A copy granted under para. 4 of section 58 is exempt from stamp duty under the Government of India Notification No. 10 of 3rd January 1880, published at p. 40, *B. G. G.*, Pt. I., 1880 (see now Notn. 5833, *B. G. G.*, 1889, pp. 1008 to 1017, quoted in Part X. of this compilation.)

Applications for copy, search or inspection. Receipt for any payment on account of the above to be always given.

26. *Subject to the payment of the fees prescribed in this behalf by Government under section 63, Register Books and Indexes and Memoranda filed under Rule 20, shall be open to the inspection of any person applying to inspect the same, and copies of entries therein shall be given to, or may be taken by, any person applying for such copies: Provided that no Register Book or other record of a Village Registrar's Office shall be inspected by any person other than a Government officer, save in the presence of the Village Registrar, and in the place used by him as his office, and that all applications for inspection or for copies shall be in writing.

Any person permitted to inspect such records may search for any entry therein, or if he shall so desire, such search shall be made for him, as aforesaid, by the Village Registrar.

For any payment made under this rule a receipt in the form of Appendix G, shall be granted by the Village Registrar.

(*i*) *Returns.*

(Notn. No 3807, *B. G. G.* 1885, p. 738.)

Preparation of monthly return, &c.

27. At the close of each month all Village Registrars as aforesaid shall forward to the Táluka Village Registrar a statement in the form of Appendix H, showing the number of instruments registered, and all fee collections made during that month including those on account of searches and copies granted under Rule 26.

From the returns thus sent, and from the information to be gathered from the books of his own office, the Táluka Village Registrar shall prepare a general Monthly Return for the whole of the Village Registry Offices of the táluka in the form of Appendix H, and shall submit the same to the Registrar, in whose office again a general District Monthly Return of the same kind shall be prepared and forwarded to the Inspector General of Registration.

(*j*) *Remittances.*

Remittances to the Treasury how to be made.

28. Remittances on account of registration fees, &c., shall be sent as follows to the Treasury :—

by Táluka Village Registrars, to the Táluka or Pethà Treasury along with the collections of the office under the Indian Registration Act, 1877;

by Village Registrars, by means of the village Mahárs, monthly to the Táluka Village Registrar, who shall immediately on receipt enter the same in his Cash Book and pay the amounts into the Treasury as ordered above.

* Applications made, and certified copies granted under this Rule, will be subject to the provisions of the Court Fees and Stamp Acts, independently of the copy and search fees leviable under the rules made by Government under section 63 of the Deccan Agriculturists' Relief Act, 1879.

The amounts thus remitted monthly shall be sent so as to reach the Táluka Village Registrar not later than the 25th, or in the case of Táluka Village Registry Offices where there are no Treasuries, not later than the 20th of each month; or if these dates fall upon a Sunday or gazetted public holiday, not later than the day preceding such Sunday or holiday. In March remittances may be made so as to reach the Táluka Village Registrar not later than the 31st of that month.

A remittance by a Táluka Village Registrar shall be accompanied by his Cash Book in which, on the remittance being paid in, the receipt of the Treasury Officer for the amount shall be obtained.

Remittances by Village Registrars shall be accompanied by a Chullan, which Chullan shall be countersigned by Táluka Village Registrar as acknowledgment of receipt of money and re-transmitted by him to the Village Registrar in whose office it shall be filed.

(k) Correspondence.

Táluka Village Registrars to be the medium of communication between Village Registrars and the Registrars.

29. Táluka Village Registrars shall, as regards official correspondence, be the medium of communication between the Village Registrars and the Registrars.

Correspondence how to be sent.

Where there is no post-office, correspondence from and to the offices of Village Registrars shall be sent by means of the village Mahárs, who shall be remunerated at the rate of rupee one per mensem.

References from Village Registrars how to be disposed of in certain cases.

References from Village Registrars, regarding matters of procedure, when the point involved is of minor importance and the Táluka Village Registrar to whom the reference is addressed entertains no doubt as to what the answer should be, may be disposed of by the latter without further reference to the Registrar. The reply of the Táluka Village Registrar to a reference of the above nature shall, however, be in the shape of advice, not in that of an order. A Register of such references, showing also the manner in which they have been disposed of, shall be kept by each Táluka Village Registrar, who shall be responsible for the exercise of due discretion in replying thereto. When in doubt on any point, the Village Registrar shall refer the matter to the Registrar.

30. If an original instrument which has been executed and registered under the provisions of section 58 of Act XVII of 1879 being unclaimed by the party entitled to the custody of the same has remained in the custody of a Village Registrar for sixty days from the date of its registration by such Village Registrar, such Village Registrar shall forward such original instrument to the Táluka Village Registrar for safe custody. (Notn. No. 3405, *B. G. G.*, 1888, Pt. I., p. 584).

APPENDICES OF RULES UNDER SECTION 61.

APPENDIX A.—(SEE RULE 2).

Serial Number.	Endorsements.	Copy of Instruments.

APPENDIX B.—(SEE RULE 5).

Form of Index under Rule 6 framed under Act XVII of 1879.

Name of Village in which Property is situate.*	Description of Property.	Name of Office in which Instrument is registered.	Name and Place of Residence of Executant or Executants.	Nature of Instrument and Consideration or Value.	Name and Place of Residence of Claiming Party.	Date of Registration and Reference to Register.

*N.B.—In case of instruments relating to moveables, the name of village in which the executant or executants reside should be entered in column 1.

APPENDIX C.—(SEE RULE 8).

Form of Claim-Note Book.

On production of this note by the conveyance or mortgage belonging to him and attested by me this day will be delivered to him by me (or a copy of the conveyance or mortgage executed by him and attested this day will be deliverd to him by me, or otherwise, as the case may be).

Received fees as follows:—

For drawing and registering instrument ... Rs.
Copy fee ... ... „

Total ... Rs.

Village Registrar.

APPENDIX D.—(SEE RULE 8, CLAUSE 4).

Number of Volume.	Serial Number.	Number of Copies to be granted.	Date on which Instrument returned or Copy granted.	Signatures of Executants or their Agents acknowledging receipt of Instruments and Copies.

APPENDIX E.—(See Rule 9).

Form of Cash-Book.

Wednesday, 7th January 1882.

	Rs. a. p.	Rs. a. p.
Fees on Entry No. 131 of 1882 at page 88 of Register Book—		
Registration...	0 4 0	
Copy	0 1 0	
		0 5 0
Fees on Entry No. 132 of 1882 at page 89 of Register Book—		
Registration...	0 8 0	
2 Copies	0 4 0	
		0 12 0
Remitted to Táluka Village Registrar or Treasury, as the case may be...		1 1 0

(Signed) *A. B.*,

Village Registrar of_____

APPENDIX F.

Memorandum under Rule 20 framed under Act XVII of 1879.

Serial Number.	Copy of Endorsement.	Nature of Document.	Description and Value of Property affected by the Document.	Situation of Property.	Names of Executing Parties.	Place of Residence.	Profession, Rank, or Title.	Names of Claiming Parties.	Place of Residence.	Profession, Rank, or Title.	Reference to Register.

Forwarded to the Special Village Registrar of

Date of Receipt

Date } Táluka Village Registrar.

APPENDIX G.—(See Rule 26, Clause 3).

Received from for

(search, or grant of copy, or inspection).

Village Registrar.

APPENDIX H.—(See Rule 28.)

Detailed Statement showing the Classification of all Instruments registered.

Nature of Instruments.	Immoveables.				Moveables.				
	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Total.	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Total.	Grand Total.
Deeds of Sale									
Mortgages with Possession									
Mortgages without Possession...									
Deeds of Gift									
Leases for periods not exceeding one year ...									
Leases for periods exceeding one year									
Bonds									
All other Deeds									
Total ...									

Registrar of

STATEMENT.

Statement of Instruments registered during the month ending

Nature of Instrument.	PREPARATION AND REGISTRATION OF INSTRUMENTS AFFECTING IMMOVEABLE PROPERTY.																									
	The Value or Consideration not exceeding Rs. 20.		The Value or Consideration exceeding Rs. 20 but not exceeding Rs. 50.		The Value or Consideration exceeding Rs. 50 but not exceeding Rs. 100.		The Value or Consideration exceeding Rs. 100 but not exceeding Rs. 200.		The Value or Consideration exceeding Rs. 200 but not exceeding Rs. 300.		The Value or Consideration exceeding Rs. 300 but not exceeding Rs. 400.		The Value or Consideration exceeding Rs. 400 but not exceeding Rs. 500.		The Value or Consideration exceeding Rs. 500 but not exceeding Rs. 1,000.		The Value or Consideration exceeding Rs. 1,000 and upwards.		No Value or Consideration being expressed in the Deed.		Instruments which cannot be brought under the *ad valorem* Scale.		Copies granted to parties concerned.		Total.	
	1		2		3		4		5		6		7		8		9		10		11		12		13	
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.
Deeds of Sale																										
Mortgages with possession																										
Do. without possession																										
Deeds of Gift																										
Leases for periods not exceeding one year ..																										
Leases or periods exceeding one year																										
Bonds																										
All other Deeds																										
Total ..																										

Nature of Instrument.	SEARCHES AND INSPECTIONS BY				Copies granted.		Memos. under Rule 22.		POWERS-OF-ATTORNEY ATTESTED.				Total Fees, &c., received.	Ex		
	Applicant.		Registering Officer.						General.		Special.			Salaries of		
														Registrar's Kúns.	Táluka Village Registrar.	Special Village Registrar.
	29		30		31		32		33		34		35	36	37	38
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	Amount.	Amount.	Amount.	Amount.
Deeds of Sale																
Mortgages with possession																
Do without possession																
Deeds of Gift																
Leases for periods not exceeding one year ..																
Leases for periods exceeding one year.																
Bonds																
All other Deeds																
Total ..																

189 *in the Village Registration Office of* *Táluka*

Total aggregate Value of Immoveable Property.	Preparation and Registration of Instruments of moveables.																										
	The Value or Consideration not exceeding Rs. 20.		The Value or Consideration exceeding Rs. 20 but not exceeding Rs. 50.		The Value or Consideration exceeding Rs. 50 but not exceeding Rs. 100.		The Value or Consideration exceeding Rs. 100 but not exceeding Rs. 200.		The Value or Consideration exceeding Rs. 200 but not exceeding Rs. 300.		The Value or Consideration exceeding Rs. 300 but not exceeding Rs. 400.		The Value or Consideration exceeding Rs. 400 but not exceeding Rs. 500.		The Value or Consideration exceeding Rs. 500 but not exceeding Rs. 1,000.		The Value or Consideration exceeding Rs. 1,000 and upwards.		No Value or Consideration being expressed in the Deed.		Instruments which cannot be brought under the ad valorem Scale.		Copies granted to parties concerned.		Total.		The aggregate Value of Moveable Property.
14	15		16		17		18		19		20		21		22		23		24		25		26		27		28
Amount.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	Amount.

ENDITURE

Táluka Village Registrar's Kárkúns.	Commission at 20 per cent.	Commission at 5 per cent.	Fixed Contingencies.	Furniture.	Postage.	Remuneration to Mahárs.	Miscellaneous.	Total.	Surplus.	Deficit.
39	40	41	42	43	44	45	46	47	48	49
Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.

Registrar of

Monthly Statement of Arrears in the Circle of on the 1st 189

Village or Táluka Registrar.	Number of Documents to be copied.	Number of Copies to be prepared.	Number of Documents, &c., of which registration is completed, remaining unclaimed in Office.		Details of Documents in hand.
			Instruments.	Copies.	
					10 instruments from April 1882. 5 instruments from May 1882. 20 copies from May 1882. 20 do. from June 1882.

Detailed Statement showing Number of Transactions of each Nature in each Registration Circle according to Number of Column in Statement of Instruments registered during the month.

Name of Circle.	Deeds of Sale.	Mortgages with Possession.	Mortgages without Possession.	Deeds of Gift.	Leases for periods exceeding one year.	Leases for periods not exceeding one year.	Bonds.	All other Deeds.
	5 of 1, 2 of 3, 3 of 5, 5 of 8, 1 of 11, 3 of 15, 4 of 16, 1 of 20 and 1 of 24.	5 of 2, 3 of 4, 6 of 6, 1 of 7.	1 of 1, 2 of 3, 5 of 4, 7 of 9, 2 of 15 and 3 of 16.	1 of 1 and 1 of 16.	2 of 2 and 7 of 9.	1 of 3 and 8 of 5.	7 of 15, 2 of 16, 1 of 20 and 1 of 24.	1 of 1, 2 of 4, 7 of 5, 8 of 15 and 2 of 24.

N.B.—To be prepared by Táluka Village Registrar from the various returns received from Village Registrar and sent with his general statement.

(B).—Rules under Section 63.

The following rules are made by the Governor of Bombay in Council under the provisions of Section 63 of the Deccan Agriculturists' Relief Act, 1879, and in supersession of all previous rules on the same subject:—

Rules regulating the appointment, suspension, dismissal, and remuneration of District Inspectors and Village Registrars.

Appointments, suspension and dismissal of District Inspectors.

1. Every Inspector shall be appointed by and may be suspended or dismissed by the Inspector-General of Registration and Stamps; but shall not be dismissed without the sanction of Government being first obtained. (No. 6710, *B. G. G.*, 1882, Pt. I., p. 868.)

Appointments, suspension and dismissal of Village Registrars.

2. Every Village Registrar not being a Sub-Registrar shall be appointed by and may be suspended or dismissed by the Registrar; but shall not be dismissed except with the concurrence of the Inspector-General: provided that the first appointments of Village Registrars made after the publication of these Rules shall be made subject to the approval of Government.

Every Sub-Registrar appointed under the Indian Registration Act, 1877, in the districts to which the Deccan Agriculturists' Relief Act extends shall be *ex officio* Táluka Village Registrar for the Táluka of which he is Sub-Registrar. (No. 4462, *B. G. G.*, 1884, Pt. I., p. 453.)

Percentage commission to Táluka Village Registrars and Village Registrars.

3. In addition to any fixed salary all Táluka Village Registrars and Village Registrars shall draw 20 per cent. on the fee collections of their respective offices, and in addition to the above, Táluka Village Registrars shall draw 5 per cent. on the gross collections of their respective tálukás.

Fines to Táluka Village Registrars and Village Registrars for neglect of duty, &c.

4. In case of neglect of duty, carelessness or other official misconduct in contravention of the provisions of the Deccan Agriculturists' Relief Act, the Registrar may fine any Táluka Village Registrar or Village Registrar a sum not exceeding half a month's salary drawn under this Act, and shall report the case to the Inspector-General.

Village Registrars to give security.

5. No security for the due performance of their duties shall be required from Táluka Village Registrars, who are required to furnish security as Sub-Registrars; but Village Registrars shall be required to give security to the extent of Rs. 100. The security bond of a Village Registrar shall be in the form in use in the Revenue Department. The sureties may be one or two in number as the Collector, in whose charge the bond should be kept, directs.

Arrangements to be made during absence of Special Village Registrars from their offices.

6. In case of a Village Registrar being unable to attend to his duties owing to sudden illness or other cause he shall make an immediate report to the Táluka Village

Registrar of the sub-district, who shall forthwith report the absence of the village Registrar to the Registrar. If a *locum tenens* be appointed, his salary shall be regulated by the existing rules. Pending arrangements being made by the Registrar, the office of such Village Registrar shall be considered as closed, and applicants shall be directed by the village authorities to the Táluka Sub-Registrar.

(No. 7539, *B. G. G.*, 1886, Pt. I., p. 1078.)

7. Table of fees to be levied by Village Registrars, with effect on and from the 1st day of January 1887, namely :—

		Rs.	a.	p.
I.	For writing or superintending the writing and for attesting and registering any instrument :			
	(*a*) *If the amount or value of the consideration therefor or of the property to which such instrument relates, is expressed therein :*			
	(1) When the amount or value does not exceed Rs. 50 ...	0	4	0
	(2) Do. do. exceed Rs. 50 but does not exceed Rs. 100	0	8	0
	(3) Do. do. 100 do. 200	1	0	0
	(4) Do. do. 200 do. 300	1	8	0
	(5) Do. do. 300 do. 400	2	0	0
	(6) Do. do. 400 do. 600	3	0	0
	(7) Do. do. 600 do. 1,000	4	0	0
	(8) Do. do. 1,000 do. 1,500	5	0	0
	(9) Do. do. 1,500 do. 2,000	6	0	0
	(10) Do. do. 2,000 do. 3,000	8	0	0
	(11) Do. do. 3,000 do. 4,000	10	0	0
	(12) Do. do. 4,000 do. 5,000	12	0	0
	(13) Do. do. 5,000 do. 7,500	14	0	0
	(14) Do. do. 7,500 do. 10,000	16	0	0
	(15) Do. do. 10,000 do. 15,000	18	0	0
	(16) Do. do. 15,000 do. 20,000	20	0	0
	(17) For every Rs. 500 or part thereof in excess of Rs. 20,000 ...	0	8	0
	(*b*) *If the amount or value is not expressed :*			
	(18) A fixed fee of	2	0	0
	(*c*) *If the instrument is a will :*			
	(19) A fixed fee of	2	0	0
	(*d*) *If the instrument is one which cannot be brought under the above ad valorem scale and is not a will :*			
	(20) A fixed fee of	1	0	0
II.	For granting a copy of an instrument as entered in the Register, or of a memorandum filed under rule 20, to any person who is not a party to the instrument to which such entry or memorandum relates or the agent or representative of a party thereto	0	4	0
III.	For a search for or inspection of any entry in a Register, by any applicant ...	0	2	0
IV.	For do. do. when the search is made by Village Registrar ...	0	4	0
V.	For attendance at a private residence for the preparation of an instrument or for the attestation of a power-of-attorney	An extra fee equal to the ordinary fee in addition to batta at the usual rates.		

VI. For the attestation of a power-of-attorney:

(*a*)	if special ...	...	...	...	0	2	0
(*b*)	if general ...	...	...	...	0	4	0

Note (*a*).—In the case of leases, the amount or value of the consideration on which the *ad valorem* fee is to be assessed under Item I (*a*) of the above table shall be as follows:—

If the lease is granted	The fee will be assessed on:
(1) in consideration of the payment of a fine or premium only	the amount of such fine or premium paid or payable;
(2) in consideration of the payment of a fine or premium, in addition to rent reserved	the average annual rent reserved, in addition to the amount of fine or premium;
(3) in consideration of the payment of an annual rent, without the payment of fine or premium	the average annual rent reserved;
(4) for a period less than a year	the total sum payable under the lease;
(5) for an indefinite period	the average annual rent payable for the first ten years.

Note (*b*).—If a patta or lease be given to a cultivator and a kabuláyat or counterpart of such patta or lease be prepared and registered in the same office and on the same day as the patta or lease, the fee chargeable in respect of the two documents shall not be greater than the fee chargeable for the patta or lease alone.

Note (*c*).—In the case of annuity-bonds and service bonds and agreements to hire moveable property, the amount or value of the consideration on which the *ad valorem* fee is to be assessed under the item aforesaid shall be as follows:—

If the annuity-bond, service bond or agreement is granted or passed:	The registration fee will be assessed on:
(1) for a definite period exceeding one year	the average annual amount to be paid during the period;
(2) for an indefinite period	the average annual amount to be paid during the first ten years;
(3) for a period less than a year	the total amount payable under the annuity-bond, service bond or agreement.

Note (*d*).—If, in any of the above cases, the rent, annuity or remuneration is payable partly in money and partly in kind and the money value of the portion payable in kind is not expressed, the fee will be charged at twice the amount of the *ad valorem* fee chargeable in respect of the amount payable in money. And if the rent, annuity or remuneration is payable entirely in kind and the money value thereof is not expressed, a fixed registration fee of Rs. 2 will be charged.

"VII.—For the safe custody and return of any original instrument, which having remained in the hands of the Village Registrar for sixty days from the date of its registration, as unclaimed by the party entitled to the custody of the same, has been forwarded, under Rule 30, to the Táluka Village Registrar. (No. 3405 *B. G. G.* 1888, Pt. I p. 584.)† (Notn. No. 824, *B. G.* 4888, Pt. I p. 744.)

(No. 4824, B. G., 1888, Pt. I, p. 744.)

	Rs.	a.	p.
For every day that such original instrument remains in the custody of the Táluka Village Registrar up to the day when it is claimed by a party entitled to its custody	0	1	0

Provided, however,

(1) that no fee in excess of Rs. 3 shall in any case be levied for the custody and return of any one such original instrument.

(2) that the Inspector-General shall be empowered to remit any such fees in whole or in part in any particular case."

APPENDIX TO RULES UNDER SECTION 63.

(Under Rule 3.)

B 129—142 *+

HER MAJESTY'S GOVERNMENT OF BOMBAY.

The amount of percentage at 20 and 5 per cent. due to the Táluka Village Registrars and Village Registrars on the Fees collected and paid into the treasury of to the credit of Government during the month of 189 .

1	2	3	4				5				6
		Collection.	How and when the Collections were credited to Government in the Treasury Officer's Cash Account.				Percentage payable.				
Táluka.	Names of Táluka Village Registrars and Village Registrars.	Fees.	Total amount paid into the Treasury.	Month.	Heading under which credited.	Item in which it is included.	Twenty per cent. on Fees.	Five per cent. on Gross Collection of the Táluka.	Deduct Fines.	Net Amount of Percentage payable.	Remarks.
		Rs. a. p.	Rs. a. p.		Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	

Certified that the amount entered in column 4 has been credited to Government as above.

Táluka Village Registry Office,
189 .

189 .

Mámlatdár or Officer in charge of Táluka Treasury.

Táluka Village Registrar.

Under Section 75.

The following Rules are made by the Governor of Bombay in Council under the provisions of section 75 of the Deccan Agriculturists' Relief Act, 1879:—

(No. 6710, *B. G. G.*, 1882, Pt. I., p. 870.)

Certain Village Registrars not to prepare or register instruments in which they are interested.

1. No Village Registrar shall prepare or register any instrument under the provisions of the Act to which he or any member of his family is a party. For the preparation or registration of any such instrument the parties shall be referred to the Táluka Village Registrar who has concurrent jurisdiction.

(Notn. 7729 *B. G. G.*, 1884, p. 928.)

2. *Cancelled.*

Recital as to payment of consideration.

3. No Village Registrar shall prepare or register any instrument under the provisions of the Act, unless it shall be stated in the body of such instrument whether the consideration mentioned in the instrument has already been paid or is to be paid hereafter, and if it has been paid, the manner in which such payment was made shall be fully set forth.

Powers-of-attorney recognizable for purposes for section 57.

4. For the purpose of section 57 the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say):—

(*a*) if the party executing a power-of-attorney at the time of executing the same resides in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar or Village Registrar within whose district, sub-district, or village such party resides:

(*b*) if the party at the time aforesaid resides in British India, but not in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by any Magistrate:

(*c*) if the party at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India.

(No. 7540, *B. G. G.*, 1886, Pt. I., p. 1079.)

5. Applications for copies under the fourth paragraph of section 58 must be made in writing.

(No. 901, *B. G. G.*, 1887, page 141.)

*In preparing any instrument under section 63A of the Dekkhan Agriculturists' Relief Acts 1879 to 1886, Sub-Registrars shall be guided by the provisions of Nos. 13, 14, 15, 15B, 16, 17 and 18 of the rules made under section 61 of the said Acts by the Inspector General of Registration with the sanction of Government for regulating the proceedings of Village Registrars.

**Vide* Act XXIII of 1886, section 11.

(No. 892, *B. G. G.*, 1885, Pt. I., p. 176.)

In exercise of the powers conferred by sections 29 and 75 of the Deccan Agriculturists' Relief Act, 1879, the Governor in Council is pleased to make the following Rules for the management by the Collector of immoveable property* of which he takes possession under section 22 or section 29 of that Act and generally for carrying out the provisions of the Act in respect of such property:—

1. When a Court directs the Collector to take possession of any immoveable property of a judgment-debtor or insolvent, it shall transmit with its order copies of all documents, orders or porceedings which it may think necessary to make the Collector aware of essential facts concerning the position of the judgment-debtor or insolvent, and the nature and extent of the proprety to be managed by him.

It shall also at any time furnish the Collector with copies of any documents, orders, or proceedings, other than those transmitted which the Collector for the purpose aforesaid desires to see.

2. The aforesaid copies shall be prepared and sent to the Collector free of all cost to the parties, being made by the Court's establishment.

3. On receipt of the Court's order, the Collector may either himself proceed to execute it, or may refer it, for disposal, subject to his supervision and control, to any of his subordinates not lower in rank than a Mahálkari.

4. The Collector or other officer to whom he so refers the Court's order, shall appoint a day for hearing any representations which the parties may desire to make, and shall cause a writen notice to be served on each of them on the day so fixed.

On the appointed day, or as soon thereafter as may be, the Collector or other officer aforesaid shall, after such inquiry as he deems fit, determine whether any portion of the property to which the Court's order relates is required for the support of the judgment-debtor or of the insolvent, and the support of the members of his family dependent upon him. The decision of any officer other than the Collector under this rule shall be subject to confirmation by the Collector.

5. Possession of the property or of so much of it as is not, in the opinion of the Collector, required for the support of the persons aforesaid, shall then be taken by the Collector or by the officer aforesaid on behalf of the Collector, and the fact of possession having been so taken shall be published by written notice to the parties, and by proclamation on or near the property in such manner as the Collector or other officer aforesaid deems suitable.

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* *Standing crops were held to be immoveable property within the meaning of section 22 of XVII of 1879, I. L. R., 6 B., p. 592. But that section as amended by section 7 of Act XXIII of 1886 no longer exempts standing crops from attachment and sale. They appear, however, still to be immoveable property of which the Collector may under section 22 take charge.

6. If the fact of the judgment-debtor or insolvent being entitled to possession be disputed, or if any objection be raised to the Collector's taking possession of the property or of any portion of it, the Collector shall refer the parties concerned to the Court, and pending such reference shall stay proceedings in respect of so much of the property as is in dispute.

7. If after possession of the property has been taken under Rule 6, any order in writing is made by the Collector, under section 73A of the Act, directing that any other immoveable property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent, and the members of his family dependent on him, such order shall be published in the same manner as the fact of possession having been taken.

8. The Collector, or other officer aforesaid, may from time to time require by written notice the attendance of the parties in order to ascertain their wishes, or to obtain information which he may consider necessary to enable him to provide satisfactorily for the execution of the Court's order, and if any party fail to attend in pursuance of such notice, the Collector or other officer aforesaid may decide the matter in his absence, and he shall not be entitled to be heard afterwards with respect thereto.

9. If the property of which possession has been taken by or on behalf of the Collector is in the occupation of a tenant paying rent for a share of the produce to the judgment-debtor or insolvent, the Collector or other officer aforsaid shall issue a written notice to such tenant, requiring him to pay the rent or share to him for so long as his tenure subsists.

If there be no tenant in possession, or on the expiration of the tenure if the land is in the occupation of a tenant, the Collector or other officer aforesaid may let, for a term not exceeding the seven years to which his management extends, with or without payment of a premium, the whole or any part of the said property to the highest bidder; or may let on farm or manage by himself or another, the whole or any part of such property, or may adopt partly one of such modes and partly another or others of such modes as he may deem most convenient and profitable.

The person to whom the Collector or other officer aforesaid lets the property, or through whom he manages it, may be the judgment-debtor or insolvent, or any person who holds a decree against the judgment-debtor or insolvent, or a third party as may appear most convenient and beneficial to the parties.

10. The Collector shall from time to time render to the Court an account of all monies which come to his hands or to the hands of the officer aforesaid, and of all charges incurred in respect of the property in his management; and shall hold the balance at the disposal of the Court. Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property, or any part thereof, and the rent, if any, from time

to time due to a superior holder in respect of such property or part.

11. Where the management is at an end and all monies which have come into the Collector's hands have been disposed of, he shall retransmit the papers received by him under Rule I, together with the proceedings connected with the management of the property, to the Court by post or in such manner as may be most convenient.

12. Every notice issued by the Collector or other officer aforesaid under these rules may be served in the manner prescribed by section 191 of the Bombay Land Revenue Code, or if the person to be served is a party to the proceedings in the Court and has a pleader, by forwarding a copy thereof to the Court to be served upon the pleader.

Departmental Rules.

Inspection.

Village Registry Offices subject to the inspection of the District Inspector.

1. The District Inspectors of Village Registry Offices shall be responsible that the work in the offices in their respective charges is carried out in strict accordance with the rules laid down, and also that the provisions of the Stamp Act and rules are duly complied with. The Inspection Reports of the Village Registry Offices by these officers shall be sent to the Registrars, who shall forward the same to the Inspector-General for perusal, by whom they shall be returned to the Registrar with any observations that he may think necessary. A copy of such report in Vernacular shall be given by the Inspector to the Village Registrar in charge of office concerned, for reference when the final orders are received by him. It will also be the duty of these Inspectors to make special reports to the Registrar of any irregularities or neglect of duty on the part of Táluka or Village Registrars which may come under their notice, as also regarding any complaints which they may from time to time receive from the public.

District Inspectors to submit monthly diaries along with Travelling Allowance Bills.

2. The District Inspectors shall also submit to the Registrar a monthly diary showing the number of offices visited and inspected by them and also anything special which may come under their notice in connection with Village Registration. The diary shall be an accompaniment to their Travelling Allowance Bill which will be passed by the Registrar.

Occasional Inspection for other officers.

3. Village Registry offices shall also be from time to time inspected by each of the following officers, viz.:—

1. The Collector of the District,
2. The Assistant or Deputy Collector in charge of the Táluka.
3. The Inspectors of Registration and Stamps,
4. The Mámlatdár or Mahálkari of the táluka or mahál,
5. The Special Judge,
6. The Assistants of the Special Judge,
7. The Subordinate Judges,

who shall bring to the special notice of the Inspector-General or Registrar any irregularities, &c., which they may observe.

Reports to be submitted on Village Registry Office Inspections.

4. The Inspector of Registration and Stamps shall submit a report of the results of his examination of Village Registry Offices, sending it to the Inspector-General of Registration through the Registrar. A vernacular copy of the same shall be handed over to the Village Registrar for record and reference when final orders on it are received. No Inspector shall issue any order on the subject of his inspection direct to any Village Registrar. Any of the officers named in the last preceding Rule other than the Collector who inspects a Village Registry Office, shall communicate his observations to the Registrar of the District.

On receipt of any such report or observations as aforesaid, the Registrar shall himself dispose of such matters as do not appear to him to require further reference. In more important matters he shall refer to the Inspector-General of Registration before passing orders.

Authentication of books examined.

5. Every Officer on completing the examination of a Village Registry Office shall sign the Cash Book, Day Book, &c., and authenticate the Register Book in current use by making a record therein to the following effect:—

"Examined this day from page in Volume to page in this book."

(Signed) *A. B.*

Contents of Inspection Reports.

6. Inspection Reports on Village Registry Offices shall be as brief as the circumstances of the case will admit of. They shall state generally whether the fees are properly levied, whether instruments are properly stamped and carefully drawn up, whether the work of registration is done with accuracy (especially with reference to the endorsements of attestation) and despatch, whether the writing in the Register is nearly done, and whether the fee collections have been properly remitted.

Annual Reports.

Submission of Annual Report.

7. The Registrar of each District in which the Deccan Agriculturists Relief Act, 1879, is in force, shall, shortly after the close of the official year on the 31st March, submit to the Inspector-General an Annual Report containing such general remarks as he may deem necessary on the work performed during that year by the Village Registrars of his District, with any suggestions which he may have to offer for facilitating, extending or improving the system of Village Registration. He shall also forward with such report such forms of annual returns as may be called for by the Inspector-General. (Approved by G. R. No. 6709, 26th October 1882, J. D.).

Rulings of High Court on the Act.

Section 13.—A contract on which a decree has been passed is merged in the decree, and no revision of either can thereafter be made under section 13. (I. L. R. 7 B. p. 330.)

Section 15 B.—A mortgagor cannot after expiry, without payment of time fixed by decree for redemption, be afterwards allowed to pay the amount of the decree by instalments. (I. L. R. 7 B. p. 532.)

Section 15B allows the Court to order payment of a decree by instalments either in the decree or in the Court of execution. But it does not authorise a variation of any order once so made, nor does section 20 authorise a series of instalment-orders, each one varying from the preceding. (I. L. R. 12 B. 326.)

III.—THE KHOTI SETTLEMENT ACT, BOMBAY I OF 1880.

RULES UNDER SECTION 40.

In exercise of the power conferred on him in this behalf under section 40 of the Khoti Settlement Act, 1880 (Bombay I of 1880), the Governor in Council is pleased to frame the following Rules under clauses (*a*), (*b*), (*c*) and (*f*) of that section (namely) :—

Crop Appraisement Rules under clause (a).

I. Whenever the rent payable to the khot consists of a share of the produce of the tenant's land, the amount of produce claimable by the khot shall be ascertained by an estimate of the probable yield of the crop of each field to be made by the khot on an inspection of the crop a reasonable time before the same is ready for reaping in the presence of the tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent, and of two respectable witnesses, one of whom is able to read and write, provided that unless the tenant otherwise desires the khot shall inspect and appraise the crops specified below on or before the dates entered below :— (Notn. No. 1659, *B. G. G.*, 1882, Pt. I., pp. 262 and 275.)

Halwa Nágli—On or before the 10th September. (Notn. No. 6720, *B.G. G.* 1886, p. 808.)

Other Halwa crops—On or before the 1st October

Late crops, that is, harik, kulith, udid, tág, and túr—On or before the 15th November.

Other late crops—On or before the 1st November.

Rabi, *e. g.*, *gram*, *&c.*—On or before the 1st March.

Summer crops, *e. g.*, páwta, &c.—On or before the 20th March.

Hot-weather crops, *e. g.*, rice (wáigan), náchni (gimvas), jack-fruit, &c.—On or before the 20th May :

Provided further that in the case of bágáyat crops the mámlatdár or mahálkari shall decide what constitutes a reasonable time within the meaning of this rule.

II. The days fixed by the khot for inspection and appraisement of crops shall be notified by him in writing to all and every one of his tenants in the village, and the Police Patel shall be directed by the Collector to affix notices to the temples and by beat of drum and otherwise to make these dates known at least seven days previously and if for any sufficient cause (as that the crop is not ripe, &c.,) any crop is not inspected or appraised on the days so fixed, the inspection and appraisement shall not, except with the consent of the tenant, take place until after a similar second notification has been made in the village. But the date fixed by the second notification must be within the limits specified in the preceding rule.

III. If notwithstanding that the days fixed for the inspection and appraisement have been notified as aforesaid, the tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent, is not present in his field (Notn. No. 6720, *B. G. G.* 1886, p. 808.)

on the days so fixed, the khot shall nevertheless proceed to inspect and appraise such tenant's crops and shall inform such tenant in writing of the appraisement so made within 24 hours of the same by sending him a copy of the entries relating to his fields by the khot in the abhavani patrak mentioned in the rule immediately following.

(Notn. No. 6720, *B. B. G.*, 1886, p. 808.)

IV. It shall be the duty of the khot to keep a book to be called the abhavani patrak in such form as the Collector may, from time to time, prescribe, in which he shall, at the time of every inspection and appraisement that he shall make, enter on the spot the particulars of such inspection and appraisement, or cause the same to be entered. Each entry in the said book shall bear the date on which it is made, and shall be signed by the khot making the inspection and appraisement, by both witnesses, and also, if the tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent be present and admit the correctness of the entry, by the tenant, such member of his family, or such agent, provided always that such tenant, member or agent is able to write his name and does not use a mark.

Ditto.

V. The khot shall be bound, if the tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent is present, to give him then and there a signed copy of the entries relating to his fields made in the abhavani patrak. If the tenant admits the correctness of the entries and has brought his receipt-book, the entries shall be copied on the debit side of the receipt-book. In all other cases the copy shall be on a separate slip.

Ditto.

VI. An entry duly made in the abhavani patrak in accordance with the foregoing provisions, and signed with his name by the tenant or a member of his family appointed by him in writing for that purpose, or his legally appointed agent, shall be conclusive evidence of the facts therein recorded, and the appraisement shall be deemed to be final; and an entry so made when the tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent, fails to be present, shall be presumed to be correct until the contrary is proved in the manner prescribed in the next following rule, and provided the tenant has been informed of the appraisement in the manner prescribed in the last part of Rule III.

Ditto.

VII. A tenant who has not signed the abhavani patrak, or who has signed it with a mark only, may, if dissatisfied with the appraisement, petition the Mámlatdár or Mahálkari of the Táluka or Mahál in which the village is situate, within six days of the khot making the appraisement, and such officer shall forthwith nominate three respectable inhabitants of the village or its neighbourhood to inspect and appraise the crop within seven days. The appraisement made by such persons, or a majority of them, shall be final and shall be entered by the khot at the time it is made in the abhavani patrak, and the entry shall be signed by the said three persons or the majority of them.

VIII. If the khot fails to keep an abhavani patrak or to inspect or appraise the crop at the time and in the manner laid down in Rule I or to make an entry or to cause the same to be made therein in the manner hereinbefore provided, or to give information to the tenant in the manner provided in Rule III, he shall be entitled to recover from the tenant such rent only as may be due according to the yield of the crop admitted by the tenant. (Notn. No. 6720, B. G. G., 1886, p. 803.)

IX. It shall not be lawful for a tenant to reap his crop until after the same has been inspected and appraised, or until the expiry of the dates mentioned in Rule I, within which the inspections and appraisements of crops by the khot should be completed. If the tenant reaps his crop in contravention of the above rule, every presumption on doubtful points shall be made in the khot's favour.

X. If the tenant without making a petition under Rule VII reaps his crop after it has been inspected and appraised by the Khot in the presence of such tenant, or a member of his family appointed by him in writing for that purpose, or his legally appointed agent, or after the Khot has given such tenant information in the manner provided in Rule III, he shall be deemed to have admitted the correctness of the Khot's estimate. (Notn. No. 6720. B. G. G., 1886, p. 803.)

Rules under Clause (b).

I. An entry in the Paháni Kharda of *Dhára*, if not rebutted, shall be conclusive proof of *dhára*. If the Paháni Kharda only shows that a certain area was held as *dhára*, but gives no *thikáns*, the land to be entered as *dhára* shall be chosen at the discretion of the Settlement Officer from the survey numbers in the rayat's possession; always provided that the area and the proportion of rice to varkas land which may be given in the Paháni Kharda be not exceeded, and that if no information is available as to the said proportion, it shall be assumed to be 1 acre of rice to 4 acres of varkas.

II. Where there is no Paháni Kharda but a Goshwára entry only, this entry, if not rebutted, shall be conclusive proof that the Khátedár holds some dhára. To ascertain the area of his dhára, it will be necessary to discover at what rates the land assessment of the village was fixed. Evidence of this may be obtained from the Paháni Khardas of surrounding villages or otherwise. The Settlement Officer shall then proceed as in the last clause of Rule I. If the land assessment rates cannot be ascertained to the satisfaction of the Settlement Officer, the highest rate known to have existed at the date of the Goshwára must be taken as a basis and the same procedure followed.

III. The evidence of entry in Paháni Kharda or Goshwára may be rebutted by the Khot producing written proof from his accounts that he has taken "*Thal*" or "*Makta*" payments for three consecutive years within the twelve years preceding the introduction of the survey. In "*Thal*" he must show

for varkas land payments in successive years from the same land of the three crops of náchni, wari, and harik.

IV. If there is no Paháni Kharda or Goshwára, the possession of dhára may be proved by the production of receipt-books showing dhára payments for a sufficient number of years to satisfy the Settlement Officer. If no thikáns are given in the receipt-books, he shall proceed as in the last clause of Rule I.

V. If a rayat is proved to hold some dhára, and if it is not proved that any of the land in his possession has paid *thal*, the whole of the land in his possession shall be entered as *dhára*.

Rules under Clause (e).

I. When a Khot sharer sells any of his private Khoti land (Khoti Khásgi), the buyer thereof shall be entered in the survey papers in respect of that land as an occupancy tenant paying customary rates with the right to alienate his land.

II. A Khelta Dhárekari shall be bound every year, on or before the 30th April, to give notice to the Khot, stating what fields in the Khoti-nisbat Kháta he intends during the ensuing season to cultivate at dhára rates. If he fails to do so, he will be presumed to have waived his right for that season and will have to pay "*Thal*" for any Khoti land that he does cultivate.

III. The rent payable to the managing Khot by Khot sharers for their private Khoti land shall be the customary rates of the village for occupancy tenants, unless it is proved that before 1865 Khot sharers paid a *Makta* or a lower rate of "*Thal*," in which case the ancient practice shall be followed.

IV. Land about which there is, or has been, a boundary dispute between two villages shall be entered in the name of the occupant as follows:—

(*a*). If both villages are Niwal Dhára, as *dhára* land.

(*b*). If both villages are Niwal Khoti, as occupancy tenant's land paying ardhel and tirdhel.

(*c*). In any other case, as occupancy tenant's land paying survey assessment and local fund cess only.

(Notn. No. 6972, *B. G. G.*, 1887, p. 853.)

V. A Khelta Dhárekari has no right to cut trees.

VI. The Khot shall keep under section 15 the following three accounts:—

1. The Appraisement Register.
2. The Ledger.
3. The Rayat's Receipt-books.

They shall be kept in the forms hereunto annexed (Appendix I).

The Appraisement Register shall be filled up at the time of the crop appraisement in the manner laid down in Rule IV of the Appraisement Rules under clause (*a*) of section XL.

The Ledger is to be kept in the ordinary form of debit and credit account, showing the amount due from and paid by each rayat in a separate kháta for each kháta of the Botkhat. The items on the debit side of the rayat's account relating to grain payments are to be written up within 15 days from the date within which the appraisement of the crops to which the items severally relate must be made under the Appraisement Rules.

The rayat's receipt-book is to be written up on the debit side, in cases of grain payments, within one month from the several dates within which the appraisement of the crops must severally be made; in cases of dhára or quasi-dhára, payments before the 1st September.

Whenever a payment is made by a rayat, a receipt is then and there to be entered by the Khot on the credit side of the rayat's receipt-book and the book returned to its owner.

If the rayats do not bring their books to be written up on the debit side within the proper time, the Khot shall immediately on the expiry of the period make a report to the Mámlatdár or Mahálkari to that effect, who will then issue the necessary instructions to the rayats.

If a rayat brings grain or cash in payment of his revenue to the Khot without bringing his receipt-book also, the Khot shall accept the payment, but note the omission in the entry of payment in the rayat's kháta and give a separate dated receipt.

All the account books must be brought or sent by the Khot to the Kacheri of the Mámlatdár or Mahálkari to be sealed on or before the 1st July of the year preceding that for which they are to be used. This includes fresh rayats' receipt-books which must be handed over to the Khot for this purpose by the rayat on or before the 1st June of the year preceding that in which they are to be first used.

Every page of every account-book shall be sealed. The books for the first two accounts shall be provided by the Khot. Each rayat shall provide his own receipt-book. Besides the three accounts above mentioned the Khot shall take a copy of the *Botkhat* at his own expense, and shall keep it properly corrected, as the Mámlatdár or Mahálkari shall notify.

The copy of the *Botkhat* so made shall, if the village be attached, be delivered up by the Khot to the Mámlatdár for the use of the Japtidár, and on the attachment ceasing shall be returned to the Khot. The Khot shall also take a copy of "*Sud*" and "*Phalni*" books. If he does not do so, he will be

responsible for any mistakes that might have been prevented by the use of those books, but shall not be subject to any other penalty.

The managing Khot shall be bound to provide a convenient place within the boundaries of the village itself to which the rayats may bring their payments whether in cash or kind. He shall not be entitled, on any pretence whatever, to require a tenant to pay his rent in any other place except the village in the survey papers of which the tenant's name is entered.

VII. The *Botkhat* shall be in the form hereto annexed (Appendix No. I, Form No. 1). The customary rates of the village shall be recorded in full at the bottom of the *Botkhat*.

Any corrections ordered to be made in the *Botkhat* shall be signed by the Mámlatdár or Mahálkari.

If a proper *wantap* or division has been made, each Khot sharer shall be denoted by number and each rayat's kháta containing Khoti land shall have the said Khoti land entered with the number denoting the khot sharer in whose share the land is affixed to the survey number, and all the survey numbers in the share of one particular Khot sharer shall be entered consecutively.

In all cases in which the Settement Officer has decided that Khoti land is alienable by a tenant, the fact shall be entered in column 5 of the *Botkhat* by the Mámlatdár or Mahálkari.

Rules under Clause (f).

I. No forfeiture under section X shall be certified in the case of an occupancy tenant unless he has failed to pay rent for two consecutive years, nor if the tenant is a minor, shall any forfeiture be certified until two years after he has attained his majority and has failed to pay rent.

II. If the Khot is in actual possession when the minor attains his majorty and refuses to vacate, the Collector shall on the minor's application put him in possession.

III. If from any cause whatever, except the necessity of keeping fallows, an occupancy tenant fails to cultivate his land, the Khot may cultivate it for him during that season, just as if it were Khot-nisbat land, but if he does so cultivate, he shall be entitled to no assistance under section XIV.

IV. The form of written application under section 12 shall be as follows:—

TO THE COLLECTOR OF RATNA'GIRI.

I, (*or* we), the undersigned Khot (*or* Kho sharers) of the village of (—) do hereby certify that I (*or* we) have conferred on A.B. the rights and privileges of a dhárekari, (*or* quasi-dhárekari, *&c., as the case may*

be), in respect of the Survey numbers and Pot or Phalni numbers of the village tabulated below :—

Survey Number.	Pot or Phalni Number.	Area.	Assessment.

and I (*or* we) do request that an entry to this effect may be made in the Botkhat of the said village.

(Signed)———

(Date)———

All the known Khot sharers or their duly empowered attorneys shall sign—otherwise the application will be rejected.

V. Under section 27, if there is no agreement as to the order of rotation, the Mámlatdár or Mahálkari shall, on or before the 1st June in each year, issue a notice calling on the co-sharers to nominate one of their number on or before the 30th of June to be Managing Khot for the following revenue year.

VI. The dates for the payments of instalments of the Khot's jama shall be as at present, viz., 15th December, 1st February, 15th March, 1st May.

The dates for payment of rents by dhárekaris and quasi-dhárekaris shall be the same as for Khots ; but a dupetkari shall pay his grain rents on the same dates as occupancy tenants do.

Occupancy tenants shall pay their grain rents as follows :—

On the 15th December—

Half the total "Thal" payment due in Halwa or early rice and Mahán or late rice and the total *Thal* payment due in *Halva Varkas*.

On the 1st February—

The other half of the total *Thal* payment due in *Halwa* rice and *Mahán* rice and half the total *Thal* payment due in Mahán Varkas.

On the 15th March—

The other half of total "Thal" payment due in *Mahán* Varkas.

On the 1st June—

The total *Thal* payment due on account of all other crops

except Bágáyat, the *Thal* payment for which must be paid within what the Mámlatdár or Mahálkari in each disputed case may consider a reasonable time.

If the occupancy tenant pays a Makta, he shall pay it in three equal instalments on the 15th December, 1st February, and 15th March.

VII. The certificate to be given to the Managing Khot under section 29 is to be in the form hereto annexed (Appendix I, Form 4).

UNDER SECTION 40 (*d*).

The following Notification dated 11th September 1889 was published in the *Bombay Government Gazette*, pp. 779 and 780 :—

Bombay Castle, 11th September 1889.

No. 6794.—In exercise of the power conferred by section 40 (*d*) of the Khoti Settlement Act, 1880, the Governor in Council is pleased to make the following rules to determine the extent to which rules or orders made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to villages to which the said Khoti Settlement Act extends (namely) :—

1. No rule or order which shall be hereafter made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to the said villages, unless it is expressly directed in such rule or order, or in some subsequent rule or order, that it shall be applicable thereto.
2. Of the rules and orders at present in force under section 214 of the Bombay Land Revenue Code, 1879, Nos. 7 to 34, both inclusive, 36, 37, 43, 46, paragraph 2, 50, 53, 57, 58 to 72, both inclusive, 74 to 82, both inclusive, 84 to 86, both inclusive, 87, paragraph 2, 88, 99, proviso I and III, clause 2, sub-clause (*c*), and clause 3, sub-clause (*b*) shall not be applicable to the said villages.
3. The rest of the said rules and orders shall be applicable to the said villages, subject, as regards those of them which are hereinbelow in this rule mentioned, to the modifications hereinbelow respectively specified, *viz.* :—

No. of rule or order.	Modification.
2	After the word "Code" insert "and Japtidárs" (*i. e.*, stipendiaries appointed by the Collector to manage attached villages)."
35	For the words "the produce of trees belonging to Government" substitute "Where the produce of trees belongs to Government, it"
45	For "village officers" read "Village Accountant or Japtidár where there is one, and of the Band Kárkún where there is no Village Accountant or Japtidár."
46, para. 1	Omit the words "of section 46, or" and for the last two words substitute "section."
56	For the words "under Rule 66" substitute "by the Collector."
102	(1) For the words "Village Officers" substitute "Village Accountants and Japtidárs" and (2) for the words "November or December and the Village Accountant" substitute "January or February. Villages in which there is no Village Accountant or Japtidár shall be divided by the Collector into groups; and the Band Kárkún shall examine all the boundary marks in every village comprised in one such group every year in rotation. The examining officer," and

No. of rule or order.	Modifications.
	(3) for the words "Village Accountant," in para. 2, substitute "examining officer."
104	For "Village Officers" substitute "Village Accountant or Japtidár, if there be one."
111	(1) In clause 1 (*c*), for the words "the grass or any other produce of land" substitute "any produce" and (2) in clause 1 (*d*) omit the words "from land," and (3) in clause 4 for the words "Village Officer" substitute "Police Patel, Village Accountant or Japtidár," and (4) in clause 5 for the words "Village Officer" substitute "Village Accountant or Japtidár."

Persons who have any remarks or suggestions to make should communicate them in writing to the Chief Secretary to Government, Revenue Department, within one month from the date of this Notification.

APPENDIX No. I.

FORM 1.

APPRAISEMENT REGISTER.

FORM OF BOTKHAT.

BOTKHAT OF MAUZE ,TARF ,TA'LUKA ,ZILLA RATNA'GIRI, A.D. 18 .

Khoti Rights and Shares.

Khot Number.	Wantaps or Divisions of Shares held separately.	Division of Shares among the Wakalas or Families as finally settled.	Shares of Persons interested other than those mentioned in Columns 2 and 3, of their Sub-sharers.	Names of Persons having interest referred to in Columns 2 and 4 or 3 and 4, and the Names of their Mortgagees.	REMARKS.
1	2	3	4	5	6
	As.	As.	As. p.		
1	4	.....	.....	Hari Govind Sápkar.	
			1 0	1 Hari Govind himself.	
			1 0	2 Trimbak Náráyan Sápkar.	
			2 0	3 Bábáji Shivrám Sápkar, mortgagee Rámchandra Govind Mule.	
		Total ...	4 0		
2	.....	4	.....	Krishnáji Dáji Joshi.	
			2 0	1 Krishnáji Dáji himself.	
			2 0	2 Vishwanáth Ganesh Joshi.	
		Total ...	4 0		
	.....	8	.....	Sadáshiv Govind Diwekar.	
			1 0	1 Sadáshiv Govind himself.	
			1 0	2 Bápuji Govind Diwekar.	
			1 0	3 Venkatesh Náráyan Diwekar.	
			1 0	4 Bhikáji Ganesh Diwekar.	
			2 0	5 Keshav Rámchandra Diwekar.	
...			2 0	6 Vital Yeshwant Diwekar. Mortgagee. Báláji Vásudev Barwe.	
		Total ...	8 0		
			Rs. a. p.		
	4	12	1 0 0		

STATEMENT.

Number. Survey Number.	Pot Number.	Phalni Number.	Name of Field.	Tenure, viz., Inám or Khálsa, (Government), Dhára or Khoti and other Tenures. Whether a Khoti tenant has a right to sell Khoti land or not? If he has, to state that he has.	Khoti Number.	Share out of the whole Village and Khoti.	Survey Assessments payable. Kharif or Rice Lands. Acres and Gunthas.	Kharif or Rice Lands. Amount.	Rabi Lands. Acres and Gunthas.	Rabi Lands. Amount.	Garden Lands. Acres and Gunthas.	Garden Lands. Amount.	Varkas Lands. Acres and Gunthas.	Varkas Lands. Amount.	Assessment on Cocoanut Trees.	Total of Assessment.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
			Sajaná bin Pingoji Bhogalé No. 1.				A. g.	Rs. a. p.	A. g.	Rs. a. p.	A. g.	Rs. a. p.	A. g.	Rs. a. p.	Rs. a. p.	Rs. a. p.
1	7	...	Mhasondá	Dhára	...	...	...	.....	...	.....	0 10	1 4 0	...	.....	...	1 4 0
6	...	10, 20, 21 & 22	Kalacha Parya ...	Do.	...	...	...	.....	...	.....	...	.....	3 15	0 8 6	...	0 8 6
8	1	...	Do. ...	Do.	...	...	0 6½	0 11 0	...	.....	...	.....	...	.....	...	0 11 0
12	1	...	Kùdété	Do.	...	...	0 13	1 6 0	...	.....	...	.....	...	.....	...	1 6 0
16	...	10, 11, 20 & 21	Gōttana	Do.	...	...	...	.....	...	.....	...	.....	9 2	1 3 6	...	1 3 6
24	...	1	Kargalmhos ...	Do.	...	...	...	.....	...	.....	...	.....	0 34	0 3 0	...	0 3 0
37	1	...	Wawalyachi Gōttana.	Do.	...	...	...	.....	...	.....	0 4½	0 10 0	...	.....	...	0 10 0
43	5	...	Wadáché	Do.	...	...	0 23¾	2 8 0	...	.....	...	.....	...	.....	...	2 8 0
44	...	7	Shivkala Batāchi ...	Do.	...	...	...	.....	...	.....	...	.....	0 13	0 1 0	...	0 1 0
51	5	...	Kharwat	Do.	...	As. 8	0 30	3 12 0	...	.....	...	.....	...	.....	...	3 12 0
77	...	9, 10 and 15	Paryaché	Do.	...	...	...	.....	...	.....	...	.....	3 19	0 8 6	...	0 8 6
...	6	13					1 33¼	8 5 0	...	.....	0 14½	1 14 0	17 3	2 8 6	...	12 11 6
17	...	7 & 12	Gawan	Occupancy Tenant.	1	...	...	.....	...	.....	...	.....	3 28	0 9 0	...	0 9 0
50	...	4, 11 and 19	Warkhadicha Mala.	Do. ...	1	...	...	.....	...	.....	...	.....	2 30	0 5 0	...	0 5 0
50	...	20	Do- ...	Do.	1	As. 8	...	.....	...	.....	...	.....	1 5	0 2 0	...	0 2 0
77	...	5	Parayachē ...	Do.	1	...	...	.....	...	.....	...	.....	0 34	0 3 0	...	0 3 0
...	...	7					...	.....	...	.....	...	.....	8 17	1 3 0	...	1 3 0
1	...	2	Mhasonda	Do. ...	2	...	...	.....	...	.....	...	.....	0 1	0 0 6	...	0 0 6
12	...	1	Koodyat	Do. ...	2	...	...	.....	...	.....	...	.....	0 2	0 0 6	...	0 0 6
17	...	13	Gawana	Do. ...	2	...	...	.....	...	.....	...	.....	1 0	0 2 0	...	0 2 0
29	...	3 and 4	Dewalāchā Sada ...	Do. ...	2	...	...	.....	...	.....	...	.....	1 21	0 5 0	...	0 5 0
35	...	1	Devala Nageek ...	Do. ...	2	...	...	.....	...	.....	...	.....	2 0	0 5 0	...	0 5 0
...	...	6 and 9	Dewalāchā Sada ...	Do. ...	2	...	...	.....	...	.....	...	.....	1 18	0 5 0	...	0 5 0
36	...	11	Dhakta Sada ...	Do. ...	2	...	...	.....	...	.....	...	.....	0 22	0 2 0	...	0 2 0
38	...	2 & 10	Payarichi Pakhar ...	Do. ...	2	...	...	.....	...	.....	...	.....	1 6	0 2 6	...	0 2 6
...	...	18	Do. ...	Do. ...	2	As. 8	...	.....	...	.....	...	.....	0 20	0 1 0	...	0 1 0
40	...	4 and 8	Tonk	Do. ...	2	...	...	.....	...	.....	...	.....	1 20	0 4 6	...	0 4 6
51	...	7	Kharwat	Do. ...	2	...	...	.....	...	.....	...	.....	0 2	0 0 6	...	0 0 6
75	...	9	Tonk	Do. ...	2	...	...	.....	...	.....	...	.....	2 10	0 6 0	...	0 6 0
...	...	16					...	.....	...	.....	...	.....	12 2	2 2 6	...	2 2 6
...	6	36					1 33¼	8 5 0	...	.....	0 14½	1 14 0	37 22	5 14 0	...	16 1 0

			Subhanna bin Ganná Mhápadi No. 16,														
16	...	6 & 9	Gawtana	Occupancy Tenant.	1	...	...	.....	...	.....	...	.....	1 20	0 3 0	...	0 3 0
6	...	2	Khalácha Paryá ...	Do. ...	2	...	...	.....	..	.....	...	.....	1 0	0 3 0	...	0 3 0
17	...	4	Gawana	Do. ...	2	...	...	.....	..	.....	...	.....	0 20	0 1 0	...	0 1 0
38	...	4	Páyarichi Pákhar...	Do. ...	2	...	...	.....	...	.....	...	.....	0 10	0 0 6	...	0 0 6
42	...	6	Khonda	Do. ...	2	...	...	.....	...	.....	...	.....	0 12	0 0 6	...	0 0 6
44	...	6	Shinvkala Batáchi...	Do. ...	2	...	...	.....	...	.....	...	.....	0 1	0 0 6	...	0 0 6
50	...	14 & 17	Warkhadicha Mal .	Do. ...	2	...	...	.....	...	.....	...	.....	1 7	0 2 6	...	0 2 6
74	...	1, 4 & 6	Matacha Sada ...	Do. ...	2	...	...	.....	...	.....	...	.....	0 35	0 3 0	...	0 3 0
75	..	5	Tonk	Do. ...	2	...	...	.....	...	.....	...	.....	0 35	0 2 0	...	0 2 0
77	...	14	Parayaché	Do. ...	2	...	...	.....	...	.....	...	.....	1 14	0 3 0	...	0 3 0
...	...	12			...	...	...	.....	...	.....	...	.....	6 14	1 0 0	...	1 0 0
...	...	14			...	...	...	.....	...	.....	...	.....	7 34	1 3 0	...	1 3 0
			Details.													
			Dhára Lands		...	...	18 29	86 10 0	...	.....	15 16½	71 15 0	59 29	9 3 6	...	167 12 6
			Khoti land belonging to Khot No. I.		...	...	0 15½	1 4 0	...	.....	1 20¼	5 7 0	131 3	20 3 6	...	26 14 6
			Do. do. No. II.		...	...	0 15½	1 11 0	...	.....	0 19½	1 5 0	355 8	56 13 6	...	59 13 6
					...	...	0 31	2 15 0	...	.....	1 39¾	6 12 0	486 11	77 1 0	....	86 12 0
80	125	427			...	...	19 20	89 9 0	...	.....	17 16¼	78 11 0	546 0	86 4 6	...	254 8 6
2	...	3	Waste		....	...	...	.....	...	.....	...	.....	0 28	.....	...	.....
82	125	430	Waste and cultivated lands together .		..,	...	19 20	89 9 0	...	.....	17 16¼	78 11 0	546 28	86 4 6	...	254 8 6

The abovementioned Khátedárs are to pay as follows :—

1. The holders of Dhára land should pay the survey assessment and the Local Fund cess at the rate of one anna for each rupee of assessment.
3. The quasi-dhárekaris are to pay the survey assessment in addition to the excess amount of rent at the rates (to be mentioned below) given in the Schedule annexed to the Khoti Act.
3. The holders of the Khoti lands are to pay as follows :—
   1. The Khoti tenants except the Khoti sharers, and
   2. The Khoti sharers are to pay in accordance with the decisions recorded at the Special Ruzuwát and confirmed by the Settlement Officer under Government Resolution No. 2474, dated the 24th April 187 .

FORM 2.

Khatáwani or Ledger of Mauze *Tarf* *Táluka* *Zilla Ratnágiri, for the Khoti portion of the village lands for A.D.* 1878-79, *being Shake* 1800-1801.

GOPAL BIN RA'MA NACHRA No.

RICE IN HUSK.

Monsoon Crops.

K.	m.	p.	
0	2	0	Tikán Rátámbi, being S. N. 125, Pot No. 6, 10 gunthás is estimated to yield 4 maunds, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.
0	6	0	Tikán Sonambi, being S. N. 8, Pot No. 1. 20 gunthás is estimated to yield 12 maunds, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.

Fair weather Crops.

0	5	0	Tikán Kamath, being S. N. 142, Pot No. 3. 25 gunthás is estimated to yield 10 maunds, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.
0	2	0	Tikán Kúdété, being S. N. 150, Pot No. 1. 20 gunthás is estimated to yield 4 maunds, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.
0	15	0	

Nágli.

K.	m.	p.	
0	2	0	Tikán Kawal-táimbi, being S. N. 128, Phalni 4. 2 acres is estimated to yield 6 maunds of which the khot's share is one-third, *vide* No. of Abhawani Patrak.

Receipts.

0	2	0	Paid for the current year in person or through A on the 14th March 1880, at the rate of 45 rupees per khandi, Rs. 4-8-0.
0	0	0	Balance.

KAD-DAN.

Kadwé.

0	1	0	Tikán Kamath, being S. N. 142, Pot No. 3. 25 gunthás is estimated to yield 2 maunds of kadwé, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.

Wari.

K.	m.	p.	
0	1	0	Tikán Kawal-taimbi, being S. N. 128, Phalni 4. 1 acre 5 gunthás is estimated to produce 3 maunds, of which the khot's share is one-third, *vide* No. of Abhawani Patrak.

Receipts.

0	1	0	Paid for the current year in person or through one maund of wari at the rate of 40 rupees per khandi, Rs. 2-0-0.
0	0	0	Balance.

Betel-nut.

K.	m.	srs.	
0	0	4	Tikán Sonambi, being S. N. 8, Pot No. 1. 20 gunthás is estimated to yield 8 sers of betel-nut, of which the khot's share is one-half, *vide* No. of Abhawani Patrak.

Receipts.

0 7 0 Paid in person or through for the current year on the 14th March 1880, seven maunds of rice in husk at the rate of Rs. 35 per khandi (Rs. 12-4-0.)

0 8 0 Balance for the current year.

Til.

0 2 0 Tikán Masanwate, being S. N. 130 Phalni 2, 1 acre and 5 gunthás, is estimated to yield six maunds of til, of which one-third is the khot's share, *vide* No. of Abhawani Patrak.

Receipts.

0 2 0 Paid for the current year on the 14th March 1880, in person or through two maunds of til.

0 0 0 Balance.

Receipts.

0 1 0 Paid for the current year in person or through on the 28th May 1880, one maund.

0 0 0 Balance.

Jack-fruit.

No.

250 Jack-trees in Gastan and S. N. 130 are estimated to yield 500 jack-fruit, of which one-half is the khot's share, *vide* No. of Abhawani Patrak.

Receipts.

250 Paid for the current year on the 25th May 1880 in person or through two hundred and fifty jack-fruit.

0 Balance.

Sugar-cane produce (Jaggery).

K. m. srs.

0 1 20 Tikán Kúdété, being S. N. 150, Pot No. 2. 20 gunthás is estimated to yield 3 maunds jaggery, of which one-half is the khot's share, *vide* No. of Abhawani Patrak.

Receipts.

0 1 0 Paid for the current year on the 25th May 1880 in person or through one maund of jaggery.

20 0 0 Balance for the current year.

Receipts.

0 0 4 Paid for the current year on the 28th May 1880 in person or through 4 sers of betel-nut.

0 0 0 Balance.

Cocoanuts.

No.

50 Two cocoanut trees in S. N. 130 are estimated to yield 100 cocoanuts, of which one-half is the khot's share, *vide* No. of Abhawani Patrak.

0 Receipts.

50 Balance. Fifty cocoanuts for the current year.

Harik.

K. m. p.

0 1 8 Tikán Kawal-taimbi, being S. N. 128, Pot No. 4. 25 gunthás is estimated to yield 4 maunds and 8 pylis of harik, of which one-third is the khot's share, *vide* No. of Abhawani Patrak.

Receipts.

0 1 0 Paid for the current year on the 14th March 1880 in person or through one maund of harik.

0 0 8 Balance.

FORM 3.

FORM OF RAYAT'S RECEIPT-BOOK.

Ledger page. *No. of Ledger Account*

Lakshmun Vishwanáth Pettey, inhabitant of Mauze Taraf Táluka. Zilla Ratnágiri, for A.D. 1879-80.

Rs.	a.	p.	
8	2	0	Amount paid in cash in person or through on the 5th of December 1879 ... ...
			Current year—
7	12	0	Land Revenue.
0	6	0	Local Fund Cess.
8	2	0	Rupees eight and annas two only.

(Signed) GOVIND KESHAV,
Khot.

K.	m.	ps.	
0	13	0	Amount of rent in kind paid in person or through on the 14th March 1880 ... ...
			Current year—

K.	m.	p.		Rs.	a.	p.
0	7	0	Rice in husk at Rs. 35 per khandi	12	4	0
0	2	0	Nágli at Rs. 45 per do.	4	8	0
0	1	0	Wari at Rs. 40 per do.	2	0	0
0	1	0	Harik.			
0	2	0	Til.			
				18	12	0

0 13 0 Thirteen maunds of grain or three maunds of grain and the value of ten maunds, *viz.*, rupees eighteen and annas twelve only.

(Signed) GOVIND KESHAV,
Khot.

K.	m.	srs.	
			Paid for the current year on the 25th May 1880 ... ...
0	1	0	250 (No.) jack-fruit in person or through Sugar-cane produce (jaggery in weight in person or through Two hundred and fifty jack-fruits and one maund of jaggery.

(Signed) GOVIND KESHAV,
Khot.

			Paid for the current year on the 28th May 1880.
0	0	4	Betel-nut weighing four sers in person or through
0	1	0	Kad-Dan—kadwé, one maund. Four sers of betel-nut and one maund of kadwé.

(Signed) GOVIND KESHAV,
Khot.

Rs.	a.	p.	
6	8	0	Balance— Amount due as settled for the current year. Assessment on Dhára lands. Land Revenue.

Name of Thikán.	S. N.	Pot No.	Falni No.	Land. A.	Land. g.	Assessment. Rs.	Assessment. a.	Assessment. p.
Rewa ...	5	2	0	0	10	0	6	0
Fanshi ...	15	8	0	5	2	6	2	0
				5	12	6	8	0

Rs.	a.	p.	
1	6	6	Assessment on Daspáta lands.
1	4	0	Land Revenue.

Name of Thikán.	S. N.	Pot No.	Falni.	Land. A.	Land. g.	Assessment. Rs.	Assessment. a.	Assessment. p.
Ganiché ...	4	3	0	0	5	0	8	0
Shéwré ...	8	2	0	0	10	0	12	0
				0	15	1	4	0

0 2 6 Excess amount of rent fixed at the survey settlement according to Mámul (old) custom in regard to Daspata lands.

1	6	6	

Rs.	a.	p.	
1	5	4	Assessment on Didpata lands.
1	5	4	Land Revenue.

	S. N.	Pot No.	Falni No.	Land. A.	Land. g.	Assessment. Rs.	Assessment. a.	Assessment. p.
Dand	15	5	0	0	10	0	12	0
Shinu	20	4	0	0	9	0	9	4
				0	19	1	5	4

Excess amount rent in kind fixed at the survey and settlement according to the Mámul (old) custom in regard to Didpata lands.

K. m. p.
0 0 6 Remission.
Amount of rent in kind remitted from the current year's khot's share in rice produce in S. N. 8, Pot No. 1, *viz.*, six pailis.

(Signed) GOVIND KESHAV,
Khot

Abstract.

Nature of item.	Receipts during the year.	Balance at the close of the year.	Total.
In Cash.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Cash	8 2 0	1 10 11	9 12 11
In Kind.	K. m. ps.	K. m. ps.	K. m. ps.
Rice in husk	0 7 6	0 8 0	0 15 6
Nágli	0 2 0	.....	0 2 0
Wari	0 1 0	.....	0 1 0
Harik	0 1 0	0 0 8	0 1 8
Til	0 2 0	.....	0 2 0
Kadwé	0 1 0	.....	0 1 0
In Weight.	K. m. srs.	K. m. srs.	K. m. srs.
Betel-nut	0 0 4	.....	0 0 4
Sugar-cane produce (jaggery)	0 1 0	0 0 20	0 1 20
In Number.	No.	No.	No.
Jack-fruit	250	.....	250
Cocoanuts	.....	50	50
Bundles of rice straw ...	.....	303	300

(Signed) GOVIND KESHAV,
Khot.

K. m. p.
0 0 6 Rice in husk at the rate of—
Nágli do. do.
Wari do. do.
0 0 6

Rs. a. p.
0 9 1 Local Fund Cess at the rate of one anna for each rupee of assessment on dhára and quasi-dhára lands.

Revenue on account of khoti lands in which this rayat is an occupancy tenant.

Name of Thikán.	S. N.	Pot No.	Falni No.	Land. A.	Land. g.
Sonambi	... 8	1	0	0	30
Rátámbi	...125	6	0	0	10
Kawal-taimbi	...128	0	4	4	9
Masanwato	...130	0	2	2	5
Kamath...	...142	3	0	1	10
Kúdété	...150	2	0	0	20
				9	4

Details as to payments due on Khoti lands cultivated during the current year.

K. m. ps.
1 2 8 Assessment in kind.

No. of Thikán	S. N.	Pot No.	Falni No.	Land. A. g.	Grain Produce. M. p.	Khot's Share. M. p.
K. m. ps. *Monsoon Crops.*						
0 8 0 Rice in husk.						
0 Rátámbi ...	125	6	0	0 10	4 0	0 2
Sonambi ...	8	1	0	0 20	12 0	6 0
				0 30	16 0	8 0
0 2 0 Nágli.						
Kawal-taimbi	128	0	4	2 0	6 0	2 0
0 0 1 0 Wari						
Kawal-taimbi	128	0	4	1 5	3 0	1 0
0 1 8 Harik.						
Kawal-taimbi	128	0	4	0 25	4 8	1 8
0 2 0 Til.						
Masanwato	130	0	2	1 5	6 0	2 0

160 bundles of rice straw at the rate of twenty bundles per each maund of rice.

FORM OF RAYAT'S RECEIPT-BOOK—*continued.*

Fair Weather Crops.

						A. g.	M. p.	M. p.
0	7	0	Rice in husk.					
			Kamath	... 142	3 0	0 25	10 0	5 0
			Kudété	... 150	2 0	0 20	4 0	2 0
						1 5	14 0	7 0
			Kad-Dán.					
0	1	0	Kadvé					
			Kamath	... 142	3 0	0 25	2 0	1 0

140 bundles of rice straw at the rate of twenty bundles per each maund of rice.

1 2 8

K. m. srs.

0 1 24 Assessment in weight.

K. m. srs.

0 0 4 Half of the produce of betel-nut in S. N. 8, Pot No. 1, weighing 8 sers.

0 1 20 Half of the sugar-cane produce (jaggery) in S. N. 150, Pot No. 2, weighing 3 maunds.

0 1 24

No.

300 Fruits.

No.

250 Half of the jack-fruit in Gawtan land and S. N. 130, numbering 500.

50 Half of the cocoanuts from 2 cocoanut trees in S. N. 130, in all 100 cocoanuts.

300

FORM OF RAYAT'S RECEIPT-BOOK—*continued.*

Details of payments due.

Nature of item.	Amount.	Name of item.	Amount.
	Rs. a. p.		K. m. srs.
In Cash.		*In Weight.*	
Cash	9 12 11	Betel-nut	0 0 4
		Sugar-cane produce (jaggery)	0 1 20
In Kind.	K. m. ps.		
Rice in husk	0 15 6		
Nágli	0 2 0		
Wari	0 1 0	*In Number.*	No.
Harik	0 1 8	Jack-fruit	250
Til	0 2 0	Cocoanuts	50
Kadwé	0 1 0	Bundles of rice straw .	300

Explanatory Notes.

1. When value is paid in lieu of grain assessment, the quantity of grain is to be credited and the value paid is to be shown in the body of the entry.
2. The balance outstanding at the end of the year should be shown in detail for each year.
3. It will be only necessary to give full details of Survey, Pot, and Falni Numbers, acres and assessment once in five years, but in the meantime should any numbers, &c., be deducted or added on, then full rticulars showing the additions or deductions to be given.
4. When value is recovered in lieu of grain assessment during the period of attachment of a village by Government, the amount should be shown on the debit side and the quantities of all kinds of grain for ich the money is paid should be shown separately in the body of the entry. There is no necessity for showing similar details on the credit side. During the Khot's management remark No. 1 is to be followed.
5. In the case of a pure Khot village or a tenant-at-will, of course, no details as to Dhára, Daspata, &c., need at all be given.
6. All receipt-books are to be written up as shown in this form, viz., Jamábandi on the debit side and the receipts on the credit side ; or, if convenient, Jamábandi may be written in detail first and then re-pt immediately below.

FORM 4.

No. *No.*

Seal.

is appointed under Section 29 of Bombay Act I of 1880 by the Collector of the District of Ratnágiri to be Managing Khot of the village of_____ Táluka_____ in the aforesaid District for the revenue year 189 .

is appointed under Section 29 of Bombay Act I of 1880 by the Collector of the District of Ratnágiri to be Managing Khot of the village of_____ Táluka_____ in the aforesaid District for the revenue year 189 .

Mámlatdár. Mámlatdár.

*Date*_____ *Date*_____

ADDITIONAL ORDERS, RULINGS AND OPINIONS.

Khots under the Act are Superior holders.

The position of a Khot in the villages to which the Bombay Khoti Act I of 1880, has been extended is that of a superior holder, and in the event of the attachment of his village, his rights in respect of khoti profits, on his resuming the management of the village would be regulated by section 162 of the Revenue Code, Bombay Act V of 1879. But this rule does not hold good where the village attached is one in the Kolába District to which the Khoti Settlement Act has not been extended, unless the Khots therein are Sanadi or Vatandar Khots (I. L. R., 8 Bom., 525).

Section 21, Appeals.—The decisions of the Khoti Settlement Officer under section 21, of Bombay I of 1880 are not appealable to any higher executive authority. (G. R. No. 6292, dated 16th September 1887, R. D.)

Section 36.—Recovery of Local Fund Cess before introduction of Survey Settlement.

Memo. by L. R.:—A question has arisen as to whether the khots in the Rájápur Táluka of the Ratnagiri District, where the survey settlement has not yet been introduced, can levy Local Fund Cess from their tenants.

"According to paragraph 1 of section 23 of the Khoti Settlement Act, section 36 of that Act does not apply to a khoti village until such a time as a survey settlement or a revised survey settlement is first introduced therein after the passing of the Act.

"2. Under paragraph 2 of section 23 the rights and responsibilities of all persons in a khoti village in respect of the payment of Local Fund Cess until such time, are to continue to be such as they would be if section 36 had not been enacted.

"3. The result is that in the villages in which a survey settlement has not yet been introduced the law as to the levy of Local Fund Cess is at present precisely the same as it was when Government Resolution No. 2102 of 23rd April 1878, was passed. My *locum tenens*, Dr. Pollen, described the state of that law and the difficulties which it presents in khoti villages in his No. 336 of 9th April 1878. I concur generally in what he wrote; but I think that the difficulty in respect of recoveries by khots from inferior tenants under section 8 of Bombay Act III of 1869 is one which is not limited to them, but applies also to inámdárs and all superior land-holders whose estates have not been subjected to a survey assessment.

"4. There is no doubt that lands held by khots are liable under section 6 of the last-mentioned Act to the Local Fund Cess. There is little doubt either that they, as well as inámdars, are entitled under the latter part of section 8 of the Act to recover this cess from their tenants. But they, as well as inámdárs, can only recover from their tenants what they themselves actually pay to Government and each individual tenant is only liable for the proportion which the assessment or rental of his land bears to the total assessment or rental of the entire village. Neither a khot nor an inámdár is at liberty to make use of the provisions of the Act as a means of profit to himself by levying from his tenants in the name of Local Fund Cess a larger amount than he himself has to pay to Government on that account. This was so held by the Bombay High Court in Special Appeal No. 303 of 1873 (High Court's Printed Judgments for 1874, page 29). The Court said: 'The plaintiff's claim to recover as Local Cess one anna on every rupee of his own rent is clearly inadmissible. He has not given evidence * * * * to prove what would be the proper proportional amount of the Government assessment on the field in dispute, as deduced from the total assessment of the village; and therefore (assuming that the cess is recoverable from the defendant) there are no materials for determining the amount.'

"5. Where every holding in a village has been surveyed and assessed, there is no difficulty in determining what is the amount of each individual tenant's liability; but where this is not the case, the burden is on the superior holder to establish that the amount which he seeks to recover from any inferior holder is the proportion of the aggregate amount of cess payable for the village fairly due by that inferior holder." (G. R. No. 4180, dated 7th July 1887, R. D.)

IV.—RULES APPLICABLE TO THE PROVINCE OF SIND UNDER THE INDIAN SALT ACT XII OF 1882.*

The following rules made by the Governor General in Council in exercise of the power conferred by the 'Inland Customs Act, 1875,' extended to the province of Sind by Notification No. 262, dated the 28th December 1887, are published under section 30 of the said Act:—

(Notn. 4112, *B. G. G.*, 1878, pp. 498 to 501, republishing G. of I. Notn. 244 of 7th August 1878.)

1. In the following Rules the word 'Commissioner' means the Commissioner in Sind, and the word 'Collector' in any provision of these rules, includes (*a*), any revenue officer in independent charge of a district; and (*b*), any officer not lower in rank than a Mukhtyárkar duly authorized by the Governor of Bombay in Council to discharge the functions of a Collector under such provision.

2. 'Manufacture of salt' in these rules does not include the excavation or removal of natural saline deposits or efflorescence.†

CHAPTER I.

Of the ‡manufacture of salt.

3. No salt shall be manufactured in any part of Sind except in the Karáchi, Hyderabad, Shikárpur, and Upper Sind Frontier districts.

4. The manufacture of salt is authorized, subject to the conditions next hereinafter prescribed, in the Karáchi, Hyderabad, Shikárpur, and Upper Frontier districts.

5. On all salt manufactured in any of the said districts, there shall be levied a duty at the rate of Rs. 2-8-0 per Indian maund.

Application for license to manufacture salt.

6. Any person wishing to manufacture salt in the said districts may apply to the Collectorfor a license.

In case of refusal, an appeal shall lie to the Commissioner, whose orders shall be final.

The license shall be in the form given in the schedule hereto annexed, and shall be signed and issued by the Collector.

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* These rules were made under VIII of 1875. That Act is repealed but section 2 of XII of 1882 keeps the rules alive. Act XX of 1884 gives the Governor of Bombay in Council power by notification to fix the date for the repeal of the words in section 1 of XII of 1882 making the last mentioned Act applicable to Sind.

By Notifications 6673, *B. G. G.*, 1890, Pt. I., p. 954, the Governor of Bombay in Council has exercised the power conferred by Act XX of 1884, and directed that the words "to the Province of Sind" and the word "Province" in paragraphs 3 and 4, respectively of section 1 of the Indian Salt Act, 1882, shall be repealed from the 1st day of October 1890.

By Notifications 6673*A* *ibid* the Governor in Council has under section 1, sub-section (2), of the Bombay Salt Act, 1890, directed that that Act shall come into force on the 2nd day of October 1890.

By Notification 6673*B* *ibid* the Governor in Council has, under section 1 of Act V of 1868' delegated the powers conferred upon him as the Local Government of the Province of Sind by sections 6; 10, clause 1; 17, clause 2; 24, clauses 1 and 2 (except the power to suppress a salt-work), and 25 of the Bombay Salt Act to the Commissioner in Sind.

† Salt earth is not a "saline deposit or efflorescence." (G. R. 3674 of 6th June 1882).

‡ The Sudder Court in Sind has ruled (1) that the mere dissolving of salt earth in water is not a manufacture of salt, for it is not a separation of salt from earth or other substance so as to procure alimentary salt—S. S. C. G. Rg. 30th September 1881; (2) that the removal of Kalar or salt earth is not a manufacture of salt—S. S. C. G. Rg. 25th Nov. 1881.

7. The manufacture of salt, and the storage and sale of the salt manufactured shall be carried on in conformity with the conditions of the license, and under the supervision of the Revenue and Salt Establishment.

Manufacture, storage and sale of salt.

8. No salt shall be removed from the place of manufacture for the purpose of storage, or after storage from the place of storage for the purpose of re-storage, to any other place, except under the written authority of the officer in charge of the works; and all salt removed under such authority shall be weighed previous to removal in the presence of such officer, or other officer whom he may depute.

Removal of salt from factory for storage.

9. No salt shall be removed for consumption from the place of manufacture or of storage unless covered by a permit certifying that duty at the prescribed rate has been paid on it.

Removal for consumption.

10. Previous to removal under Rule 9, the salt shall be weighed in the presence of the officer in charge of the works, who shall enter on the permit the weight of the salt removed and the date of removal, and shall certify that he has personally weighed the salt, and that no greater quantity has been removed than that mentioned in the permit.

Weighment before removal.

11. Licenses may be cancelled by the Collector giving one month's notice, or no the application of the licensee.

Cancelment of licenses.

In the case of cancelment of license for infringement of its conditions, no notice shall be necessary.

12. Within the limits of the districts mentioned in Rule 4, no person shall have salt exceeding twenty sers in weight in his possession, or shall sell any salt without a license from the Collector.

Possession and sale of salt within limits of districts.

13. Nothing contained in this Chapter shall apply to the manufacture of salt by or on behalf of the Government.

This chapter not to apply to manufacture by Government.

CHAPTER II.

Of the possession and sale of salt in the vicinity of natural salt deposits in Sind.

14. The area defined for the purposes of *section 10, clause (*f*) of the Inland Customs Act, 1875, round such natural salt deposit in Sind, shall extend to a distance of ten miles from the boundary of such deposit on all sides. Such an area is hereinafter termed a "protected area."

Protected areas.

15. No person shall possess any salt within a protected area unless accompanied by *rawánna* or certificate covering the same, as hereinafter provided.

Possession of salt within such area.

*Section 6, clause (*e*) of XII of 1882.

Issue of *dákhila* to purchaser of salt.

16. Any person wishing to remove salt from the deposits shall first pay the price into such Government treasury as the Commissioner may from time to time appoint, and shall receive in return a *dákhila* or receipt.

Presentation of *dákhila* with *darkhást*.

Grant of *rawánna*.

17. He shall present the *dákhila* with a written requisition or *darkhást* to the Collector, and the Collector shall thereupon grant a permit or *rawánna* signed by himself and sealed in his presence.

Period of currency of *rawánna*.

18. The *rawánna* shall be current and valid for such period, not being less than five days or more than six weeks, as the Commissioner may from time to time prescribe.

But when a *rawánna* is presented at the deposit and the salt is ready for delivery and is tendered to the holder more than seven days previous to the expiry of such period, such *rawánna* shall cease to be valid on the expiry of seven days from the date on which the salt has been tendered, unless the officer in charge of the deposit by an order endorsed upon the *rawánna* allows it to run on for its full period or any portion thereof.

The period of currency shall count from the day on which the *rawánna* is delivered to the applicant, that day being included and being noted on the face of the *rawánna*.

Limitation of number of *rawánnas*.

19. The Commissioner may from time to time make rules to limit the number of *rawánnas* with reference to the quantity of salt to be delivered to any person at one time, and may fix the minimum quantity of salt to be covered by a single *rawánna*.

Examination and endorsement of *rawánna* at the deposits.

20. On a *rawánna* being presented at the deposit and salt being issued thereunder, the officer in charge before allowing such salt to be removed shall ascertain that such *rawánna* is still in force and covers the amount of salt being issued; and shall then endorse such *rawánna* and return it to the purchaser.

Removal of salt delivered to purchaser.

21. When on the application of a purchaser salt is got ready for delivery and is tendered to him, he shall remove it that same day to a distance of at least one mile from the deposit, unless the officer in charge of the deposit, by an order endorsed on the *rawánna*, permits him to keep it within a shorter distance.

Divisions of salt under despatch.

22. If a purchaser desires to divide the despatch of salt covered by the *rawánna*, he shall apply to the Collector who issued the *rawánna* and the Collector shall issue as many partition or *atráfi rawánnas* as may be required, and cancel and resume the original *rawánna*.

Renewal of *rawánna*.

23. If anything occurs to prevent the purchaser taking delivery of the salt in time to remove it from the protected area before the expiry of his *rawánna*, the Collector may in his discretion, but subject to such restrictions as the Commissioner may from time to time impose, renew such *rawánna* at any time not more than six months from the date of original issue. If application for renewal is made later than one week before the expiration of the original *rawánna*, it shall be complied with only on the applicant paying a fee of one-twentieth of the price originally paid.

The currency of the fresh *ráwanna* shall not exceed the limits prescribed under Rule 18.

Renewal in respect of a portion of the salt.

24. If renewal be required in respect of a portion only of the salt, partition *rawánna* must be issued as provided for in Rule 22.

Further renewal.

25. Applications for renewal, except as provided in Rules 23 and 24, shall be forwarded for the orders of the Commissioner, who may, to protect traders from unmerited loss, authorise such further renewals as he may deem fit.

Deposit of salt for retail within the protected area.

26. The deposit of salt for retail sale to the people inhabiting a protected area may, subject to any conditions prescribed by the Commissioner, be permitted at any place within the limits of such area approved of by the Collector. The *rawánna* designed to cover such deposit shall be endorsed by the Collector for that purpose, and shall remain in force for a period not exceeding four months.

Procedure in retailing salt.

27. Every person retailing salt under such a *rawánna* shall keep a register of sales daily written up, and shall give to each purchaser a certificate stating the date of sale, the name of such purchaser, and the quantity purchased.

Effect of certificate of retail sale.

28. A certificate given under Rule 27 shall cover the salt sold under it while in the possession of the purchaser as if it were a *rawánna*.

Grant of duplicates of lost *rawánna*.

29. When a *rawánna* is lost or destroyed, the person to whom it was granted may make application to the Collector for a duplicate, and with his application shall deposit with the Collector an amount equivalent to that paid for the original *rawánna*, plus five per cent. on the same as a fee. The Collector may thereupon grant a duplicate *rawánna*.

On the expiry of the currency of the original *rawánna*, if it has not been utilised, the amount paid for such *rawánna* shall be refunded. The extra five per cent. shall be retained and credited to Government, unless the Collector thinks fit to refund the whole or any portion of it.

Procedure on stoppage for examination.

30. When any salt is stopped for examination within the protected area by a Salt Officer, the *rawánna* covering the despatch shall be presented by the trader or his agent to such officer, who will satisfy himself that it is a genuine document, and that its currency has not expired, and may then proceed to examine and superintend the weighment of the despatch.

He may weigh at the Government scales either the entire despatch or such proportion of it as may be prescribed from time to time by rules to be issued by the Commissioner.

Procedure on excess being found on partial weighment.

31. If only a portion of the despatch is weighed and any excess is found over the quantities specified in the *rawánna*, the weight of the whole despatch may, unless the trader objects, be calculated proportionately.

Procedure and penalties in case of excess found on weighment.

32. If on weighment of the salt it is found to exceed the quantity entered in the *rawánna*, the following practice shall, as a general rule, be observed by the officer in charge of the post:—

(*a*) If the excess is not more than one per cent., he shall allow the despatch to pass.

(*b*) If the excess is more than one and not more than five per cent., he shall, on submitting his report under section 21 of the Act, recommend that the despatch be released on the trader paying a sum equal to double the Government price of the excess.

(*c*) If the excess is more than five per cent., or in any case if there be reason to suspect fraud, he shall recommend confiscation.

CHAPTER III.

Of the seizure, disposal or destruction of things liable to be seized or destroyed under the Act.

Release of things seized or reported for confiscation.

33. When anything is seized and detained under the Act or the rules made under the Act, it shall not be released until all duty, penalties and charges due on account thereof have been paid by the owner to the officer who is in possession of such thing.

If the thing is reported for confiscation, it shall not be released unless orders for the release are received from competent authority.

Provision for keep of animals seized.

34. If an animal is so seized and detained, the owner shall provide for its due care and keep, in default of which the animal may be sold to defray charges.

Procedure on receipt of order for release whereon duty or penalty is payable.

35. If orders are received from competent authority for the release of any thing seized and detained, and no duty or penalty is payable in respect of such thing, it shall at once be given up to the owner or his agent, on his paying all charges incurred.

Notice to absent owner.

36. Should no one be present to receive the thing released, the officer in charge shall do his best to give notice to the owner of the order of release, and shall cause a similar notice to be affixed at the salt *chauki* and at the Collector's office.

Sale of things unclaimed.

If within two calendar months from the date of the notice no person entitled to receive the thing claim it, and pay all charges incurred, it shall be sold, and the proceeds placed in deposit.

Lapse of proceeds to Government.

After a further period of four calendar months, the proceeds shall be forfeited to Her Majesty.

Procedure where any duty or penalty is payable.

37. If any duty is leviable, or penalty is imposed by competent authority, in respect of the thing seized, unless such duty or penalty, together with all charges incurred, be paid within three days of the receipt of the orders of competent authority for release subject to such payment, the thing shall be sold, and from the proceeds, the duty, penalty and charges shall be deducted, and the balance made over to the owner or his agent.

Notice to owner of surplus proceeds of sale.

Should no one be present to receive the money, notice, as under Rule 37, shall be given, the money being kept in deposit for two calendar months.

Lapse to Government.

If not claimed within this period, it shall be forfeited to Her Majesty.

Sale or destruction of things confiscated.

38. When orders are received from competent authority for the confiscation of any thing seized and detained, it shall, with all convenient despatch, be sold or destroyed as the Collector may direct.

Sale or destruction of works and materials confiscated.

39. When a Magistrate declares the confiscation of works, materials or implements, under section 11 *of the Act, they shall be sold or destroyed by dismantling or otherwise under the orders of the Collector.

* Section 9 of XII of 1882.

CHAPTER IV.

Subsidiary Rules.

Power to make subsidiary rules and prescribe forms.

40. The Commissioner may make subsidiary rules and prescribe all forms necessary for the administration of the Act and these rules.

SCHEDULE (see Rule 7.)

Form of license to manufacture salt.

License to manufacture, store and sell *(here specify the quantity of salt to which the manufacture is to be limited)* Indian maunds salt at in the district of is hereby granted to *(here mention names of licensees and their agents, if any,)* under the following conditions, the infraction of any of which shall involve penalties under Act VIII of 1875, and the suspension or cancelment of this license:—

1*st.*—That the rules prescribed by the Governor General in Council under the said Act, and any subsidiary rules which may be issued by the Commissioner, shall be strictly observed by the licensee, his agents and servants.

2*nd.*—That none but good salt capable, in the judgment of the officer in charge of the works, of bearing the Government duty shall be manufactured. All inferior salt shall be thrown back for re-dissolution in the salt-wells or pans in the presence of such officer.

3*rd.*—That the licensee shall manufacture Indian maunds salt within days from the date of this license, and shall remove the whole of the said quantity of salt on payment of duty at the prescribed rate before the *(here mention date)*. If the whole or any part of the said quantity of salt shall not have been removed on payment of duty at the prescribed rate before the *(here mention date)*, all salt then remaining at the place of manufacture or storage shall be forfeited and sold by auction by the Collector, who, having deducted from the amount so realized the duty leviable on the quantity of salt sold and all expenses attendant on the sale, shall make over the balance, if any, to the licensee.

4*th.*—That a penalty of rupees six per maund shall be paid by the licensee for all salt stolen or made away with, either from the place of manufacture or storage, whether with or without his knowledge, and that, until such penalty shall have been paid, the licensee shall not sell or remove any salt from the place of manufacture or of storage.

5*th*.—That salt shall be manufactured and stored at no places other than those hereinafter designated without the consent in writing of the Collector (*here describe the places of manufacture and of storage*).

This license shall have effect from the date hereof until the *(here mention date)* or until cancelled.

The Collector may, at his discretion and by order given in writing, extend the period of currency of this license.

District
Dated

Collector.

CHAPTER V.

Of the manufacture of salt on behalf of Government.

Manufacture prohibited, except on conditions.

41. The manufacture of salt within the limits of the Moach Salt Works, or of any other local area to which the local Government may extend these Rules, is prohibited, except under the conditions hereinfter prescribed. (Notn. No. 4426, *B. G.G.* 1881, p. 419 to 421, republishing G. of I. Notn. No. 1924 of 22nd July 1881.)

Application for license to manufacture salt.

42. Any person wishing to manufacture salt within such limits may apply for a license to the Collector, who may grant or refuse the application, and whose order thereon shall be final.

Form of license.

43. The license shall be in the form given in Schedule A hereto annexed, and shall be signed and issued by the Collector.

Licenses may be cancelled.

44. Licenses may be cancelled by the Collector giving one month's notice or on the application of the licensee: provided that no notice shall be necessary when the license is cancelled by any breach of its conditions.

Manufacture and storage of salt to be carried on in conformity with conditions of license.

45. The manufacture of salt and the storage of the salt manufactured shall be carried on in conformity with the conditions of the license and under the supervision of the salt establishment.

Limits of the place of manufacture and storage at the Moach Salt Works.

46. The area defined for the purpose of section 10, Clause (*e*), of the Inland Customs Act, 1875, round the place of manufacture and of storage at the Moach Salt Works shall extend to and include the wall and ditch surrounding the said works.

Issue of permit previous to removal of salt.

47. No salt shall be removed for consumption from the place of manufacture or of storage, unless covered by a permit certifying that the price fixed by the Commissioner with the sanction of the Governor of Bombay in Council, has been paid on it.

Issue of *dákhila*, or receipt, to purchaser of salt.

48. Any person wishing to purchase salt from the Moach Salt Works shall first pay the price into such Government Treasury as the Commissioner may from time to time appoint, and shall receive in return a *dákhila*, or receipt.

Grant of permit.

49. He shall present the *dákhila*, or receipt, with a written application, or *darkhást*, to the officer in charge of the Moach Salt Works, who shall thereupon grant a permit signed by himself and sealed in his presence.

Period of currency of permit.

50. The permit shall be current and valid for such period as the Commissioner may, under Rule 40 of the Rules of the 7th August 1878, from time to time prescribe.

Grant of duplicates of lost permits on payment of fee.

51. When a permit is lost or destroyed, the person to whom it was granted may make application for a duplicate to the Collector, who may grant the same on payment of a fee not exceeding the price paid for the original permit, or, if such price be less than ten rupees, then on payment of ten rupees.

Appeal from an order to pay such fee to lie to Commissioner.

An appeal from an order to pay such fee shall lie to the Commissioner, whose orders thereon shall be final. Fees levied under this Rule shall be retained and credited to Government.

Removal of salt delivered to purchaser.

52. When a purchaser clears salt from the Moach Salt Works, he shall remove it on the day on which the salt is delivered to him to a distance of at least one mile from the works, unless for sufficient reason the officer in charge of the works allows him, by order endorsed on the permit, to keep it within a shorter distance.

CHAPTER VI.

Of the possession and sale of salt in the vicinity of Moach Salt Works.

Protected area.

53. The area defined for the purposes of section *10, Clause *(f)*, of the Inland Customs Act, 1875, round the Moach Salt Works shall extend to a distance of 10 miles from the boundary of the said works on all sides: provided that the Town and Cantonment of Karáchi, together with the suburbs of Keamari and Manora, shall be excluded from such area.

*Section 6, clause (*e*) of XII. of 1882.

54. The area defined in Rule 53 shall be called a 'protected area' and the provisions of sections 15, 26, 27, 28, 29, 30, 31, and 32, of Chapter II. of the Rules of the 7th August 1878 shall apply to the possession and sale of salt within such area.

Possession and sale of salt within such area.

55. With the exception of Rule 40 of the Rules of the 7th August 1878, and the Rules specified in Rule 54, the Rules of the 7th August 1878 shall not apply to the manufacture, sale, or storage of salt or to any other matter provided for by these Rules.

Rules of 7th August, 1878 not to apply to the Moach Works, with certain exceptions.

SCHEDULE A.—[*See Rule 43.*]

Form of License to manufacture Salt on behalf of Government.

License to manufacture salt at the Government Salt Works, Moach, in the district of Karáchi, is hereby granted to *(here give name)* in the holding No. under the following conditions, the infraction of any of which shall involve penalties under Act VIII. of 1875 and the cancellation of this license:—

1*st.*—That the rules prescribed by the Governor General in Council under the said Act, and any subsidiary rules or departmental orders that may be issued by the Commissioner, shall be strictly observed by the licensee and his servants.

2*nd.*—That none but good salt, according to the judgment of the officer in charge of the works, shall be manufactured. All inferior salt shall be thrown back into the brine pits for redissolution, or be otherwise destroyed in the presence of the officer in charge of the works.

3*rd.*—That the licensee shall deliver all such salt as he shall make, and as shall be passed by the officer in charge of the works, to Government, receiving the value thereof, less a deduction for wastage according to a fixed scale at such fixed rate per maund as may be determined from time to time by the Commissioner.

4*th.*—That a penalty of Rs. 6 per maund shall be paid by the licensee for all salt stolen or made away with either from the place of manufacture or storage, whether with or without his knowledge, and that until such penalty shall have been paid, the licensee shall not be allowed to manufacture any salt.

5*th.*—That salt shall be manufactured and stored at no places other than those hereinafter designated without the consent in writing

of the Collector *(here describe the places of manufacture and storage)*.

6*th*.—That the licensee shall keep his pan or holding fully worked at all times, except at such times as a penalty incurred under the fourth condition of this license remains unpaid; and, on his failing to do so, that the officer in charge of the works may work the same at the licensee's expense, recovering the cost thereof from any moneys belonging to the licensee which may be at the time in, or may hereafter come into, the hands of Government.

This license shall have effect from the date hereof until the (*here mention date*) or until cancelled.

District
Date

Collector.

V.—RULES REGARDING ALLUVION AND DILUVION, OWING TO CHANGES IN THE COURSE OF THE RIVER INDUS, OR OTHER WATERS, IN THE PROVINCE OF SIND.

Commenc in Sind, 22nd, 18

1. Any land, separated from the main banks of the river or sea-shore by a channel which contains water throughout its length during the whole year, is to be considered an island.

2. Islands newly thrown up by the river or sea are the property of Government.

†3. All new land not separated from the main land by a channel containing water throughout its length during the whole year, is to be considered as the property of the owner of the old land to which it is annexed, subject to Government assessment in the cases provided for in the rules below.

4. These rules hold good only in cases of lands newly thrown up by the river in such a manner as to make it impossible to identify them with any lands which may have previously existed on the same spot, and been since swept away. If the river, by a sudden change in its course, *cut off a portion* of an estate without gradual encroachment, so as merely to separate such portion of land from the rest of the estate to which it previously belonged, without destroying the identity or preventing the recognition of the land so cut off, then the land, on being clearly and unmistakeably identified, will continue to be held on the same tenure as before its separation.

5. But no weight should be allowed to the pretended recognition of lands which have been so entirely swept away at some previous period, that they disappeared during the whole of a season, and which, on the river again changing its course, are supposed to re-appear merely because in situation or composition they somewhat resemble those previously swept away. These would come under Rules 2 and 3.

6. Where lands bordering on the river are leased out by Government, it is to be the rule that whenever $\frac{1}{10}$th of the land, or a portion of the land yielding $\frac{1}{10}$th of the rental, may be swept away, the lessee can claim a re-settlement of the estate. On the other hand, the Government can assert no claim to assess any increment to lands so leased, unless it amount in extent or produce to more than $\frac{1}{10}$th of the estate leased.

According to the rule in the N.-W. Provinces, para. 210.

7. This rule should be observed even though no provision for such a contingency may have been made in the original lease.

† Rule 3 relates to the case of the *owner* of land. Section 64 of the B. L. R. C., 1879, when in force, applies to the *occupant*. (G.R. 1649, 11th March 1882, R. D.). The ordinary law independent of the B. L. R. C. is that riparian proprietor becomes the owner of land gained from a river by gradual accretion (*incrementum latens*). (2 B. H. C. R. 366, revised edn.; *see* also 6 Moore's Indian Appeals 267.)

8. When a revision of settlement takes place under these rules on the plea of diluvion, if the total assets of the whole estate settled be found to be from any cause, as large as, or larger than, they were computed to be at the time of settlement, the claim for reduction in the lease will be disallowed. If they be less, a proportionate deduction will be allowed, the assessment being calculated on the whole existing assets, in the same manner as when the settlement was originally made.

Rule para. 262 of Directions for Revenue Officers, N.-W. Provinces, No. 211.

9. And when Government claim an increase of assessment, on account of increment above $\frac{1}{10}$th, the lessee may, at his option, either have the whole estate resettled, or come under a new engagement, for the sum which may be demandable upon the newly accrued portion alone.

10. Remissions of assessment granted on account of diluvion in fixed leases, are to be reported to the Commissioner; and likewise increase of assessment on account of alluvion.

11. Holders of lands in jághir, or on other rent-free tenure, are to be left in possession of all lands attached to their estates under Rule 3, provided the increment do not exceed, by more than 10 per cent., the land which they held at the date of the latest confirmatory grant issued by competent authority.

12. If the increment exceed 10 per cent. all lands, beyond those previously held under sanction of competent authority, will be liable to assessment, but remain the property of the holder of the original rent-free estate.

13. In cases, however, where a certain fixed quantity of land has been granted rent-free, and not a village *mukan* or estate, then the holder can have no claim on any increment to his original lands.

14. If any claim being preferred by Government to assess lands newly attached to rent-free estates it be proved that more or an equal amount of land has, since the date of the last confirmatory grant to the rent-free holder, been lost by diluvion from the same estate, then the claim to assess shall be disallowed.

15. This plea is in no case to hold good, with reference to lands which had been swept away before the conquest of Sind.

16. If a rent-free estate be entirely carried away the holder will have no claim to a new grant, nor in the event of new lands being subsequently formed by the river again receding will the rent-free estate be revived. The new lands will be an increment to the estate to which they are attached under Rule 3.

17. Where villages or estates have been granted subject to payment of a quit-rent, Government will not claim to assess any increment until it reaches 10

per cent.; when it exceeds 10 per cent., the whole of the increment will be liable to the ordinary assessment.

18. The same rules which would apply to alienations, or leases of the whole Government share, shall be applicable where only a fractional portion of such share has been alienated, the addition or deduction, as the case may be, being proportioned to the extent to which the rights of Government may in each instance have been alienated.

Example.

A holds a Jághir ¼ of the Government revenue of the village of Syudpur producing 10,000 Rs. per annum.

(*a*) Case. Land producing Rs. 500 per annum is swept away. A. will receive only ¼ of the remaining Rs. 9,500.

(*b*) Case. A similar amount of land is added. A. will then receive ¼ of Rs. 10,500.

(*c*) Case. Land yielding a revenue of Rs. 2,000 is swept away. A. will receive only ¼ of Rs. 8,000.

(*d*) Case. Land yielding Rs. 2,000 is added. A. has still a right to only ¼ of Rs. 10,000.

(*e*) Case. The village in 1848, when the grant was confirmed to A. yielded Rs. 15,000 Government revenue, though latterly, the value has been only Rs. 10,000, In the case if land yielding Rs. 2,000 be added, A. will receive a fourth of the additional Rs. 2,000 as well as of the Rs. 10,000.

19. Claims founded on grants by competent authority, specifying particularly the alienation of alluvial land formed by increment must be decided specially on consideration of the terms of the grant.

20. If cases should arise in the Civil Courts involving questions of alluvion and diluvion, the litigants should be called upon to prove, if possible, the local usage; and by that, if the practice be clear and free from doubt, the Court should decide all cases resulting to alluvial land between the parties where estates may be liable to such usage. Where this proof fails, the Court should decide in the spirit of the above rules.

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